

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

JERRY GRADL MOTORS, INC., et al)  
(Via Zoom for Government) ) Case No. 1:21-CV-00409  
 ) (CRR)  
Plaintiff, )  
 )  
vs. ) January 3rd, 2022  
 ) 10:00 a.m.  
ACV AUCTIONS, INC., et al )  
(Via Zoom for Government) )  
 )  
Defendant. )

**TRANSCRIPT OF EVIDENTIARY HEARING  
BEFORE THE HONORABLE CHRISTINA R. REISS  
SENIOR UNITED STATES DISTRICT JUDGE**

APPEARANCES:

For the Plaintiff: HOGANWILLIG  
BY: RYAN JOHNSEN, ESQ.  
EDWARD P. YANKELUNAS, ESQ.  
2410 North Forest Road, Suite 301  
Getzville, NY 14068  
(Via Zoom for Government)

For the Defendant: BECKAGE PLLC  
BY: MYRIAH VALENTINA JAWORSKI, ESQ.  
420 Main Street, Suite 1110  
Buffalo, NY 14202  
(Via Zoom for Government)

ORRICK  
BY: JONATHAN DIRENFELD, ESQ.  
JOHN A. JURATA, JR., ESQ.  
Columbia Center 1152 15th St., N.W.  
Washington, DC 20005-1706  
(Via Zoom for Government)

Court Reporter: MEGAN E. PELKA, RPR  
Robert H. Jackson US Courthouse  
2 Niagara Square  
Buffalo, NY 14202  
(716) 364-6449  
(Via Zoom for Government)

1 APPEARANCES CONTINUED:

2 For Mr. Taylor and Mr. Renzoni:

3 LAW OFFICES OF ROBERT R. RADEL  
4 BY: BRIAN MALCHAK, ESQ.  
5 ROBERT R. RADEL, ESQ.  
174 Franklin Street  
Buffalo, NY 14202

08:46AM 1 THE CLERK: This is case of Jerry Gradl Motors, Inc.  
10:00AM 2 and Lifetime Motor Cars, Inc. v. ACV Auctions, Inc., et al.  
10:00AM 3 21-CV-409.

10:00AM 4 MR. YANKELUNAS: Good morning, Your Honor, Ed  
10:00AM 5 Yankelunas. I've got Nate McMurray with me. Mr. McMurray had  
10:00AM 6 an accident on Christmas Eve. He broke some ribs. We're  
10:00AM 7 going to -- it may impact his ability to speak now and then.  
10:00AM 8 He may have a coughing fit or two, but we'll get through it.  
10:00AM 9 I just wanted to let you know about that.

10:00AM 10 MS. JAWORSKI: Good morning, Your Honor. Happy New  
10:00AM 11 Year. This is Myriah Jaworski on behalf of defendant ACV  
10:00AM 12 Auctions. I also have my co-counsel Jay Jurata and John  
10:00AM 13 Direnfeld with us this morning.

10:00AM 14 Your Honor, Christopher Taylor and Tim Renzoni are here  
10:01AM 15 with their counsel, Mr. Robert Radel and I appreciate the  
10:01AM 16 introduction of Nate McMurray. I do wonder if, given that  
10:01AM 17 this is an evidentiary hearing, we should ask the non-  
10:01AM 18 testifying witness to step out during the testimony of the  
10:01AM 19 other witnesses if Your Honor has a preference.

10:01AM 20 THE COURT: If you're asking for that, ask to  
10:01AM 21 sequester witnesses, it's mandatory that that happens, so I  
10:01AM 22 would grant that request if you're making it.

10:01AM 23 MS. JAWORSKI: I am making it, Your Honor.

10:01AM 24 THE COURT: All right. So if it's not your turn to  
10:01AM 25 testify, you should not be listening in and let's figure out

10:01AM 1 the term to testify. This is defendant's motion so I will  
10:01AM 2 allow you to go forward with whichever witness you choose  
10:01AM 3 first and have the other witnesses excused.

10:01AM 4 MS. JAWORSKI: Thank you, Your Honor. We intend to  
10:01AM 5 call Christopher Taylor first.

10:01AM 6 THE COURT: Okay. Christopher Taylor will come first  
10:01AM 7 and then I want the other attorneys, plaintiffs' attorneys  
10:02AM 8 to -- and as well as defendants, to have some method for  
10:02AM 9 letting the witness know that they're up. So, email, instant  
10:02AM 10 messaging, however you want to do that, lets get that squared  
10:02AM 11 away and I'll start with plaintiffs. Are you all set for how  
10:02AM 12 you're going to let Mr. McMurray know to come on?

10:02AM 13 MR. YANKELUNAS: He's going to leave the room, Judge.  
10:02AM 14 He's a couple second away. I will go get him when it's his  
10:02AM 15 turn.

10:02AM 16 THE COURT: So you're doing it old school.

10:02AM 17 MR. YANKELUNAS: Yeah. Co-counsel is Ryan Johnsen.  
10:02AM 18 He's with me. He's on the screen now as well.

10:02AM 19 THE COURT: All right. And defendants, are you all  
10:02AM 20 set as to how you're going to let your witness know, the next  
10:02AM 21 witness, that they're up?

10:02AM 22 MS. JAWORSKI: I think we'll be relying on Mr. Radel  
10:02AM 23 for that. Rob, could you ask Tim Renzoni to leave the room  
10:02AM 24 and would you be responsible for calling him back in?

10:03AM 25 MR. RADEL: Yes. And Mr. Renzoni will be leaving the

10:03AM 1 building that we are in and will be moving to another separate  
10:03AM 2 building. With that knowledge, we would ask for a moment or  
10:03AM 3 two when we have to call him because we'll have to physically  
10:03AM 4 go into another building to call him into where we're giving  
10:03AM 5 testimony.

10:03AM 6 THE COURT: How far away is this other building?

10:03AM 7 MR. RADEL: About 100 feet, Your Honor.

10:04AM 8 THE COURT: That sounds good.

10:04AM 9 MR. JOHNSON: I'm helping Mr. Yankelunas with the  
10:04AM 10 technology, so I have some exhibits I just want to make sure  
10:04AM 11 we're able to share our screens when it's time to have  
10:04AM 12 evidentiary pieces. There's also an audio recording that I  
10:04AM 13 believe Myriah and Ed had talked about getting into evidence  
10:04AM 14 here and we've had discussion with counsel to stipulate to  
10:04AM 15 these things. So if there is a technological blip of me  
10:04AM 16 running back and forth between my laptop and Ed's, just please  
10:04AM 17 forgive me in advance.

10:04AM 18 THE COURT: Okay. The other thing I'm going to ask  
10:04AM 19 you to do is announce yourself before your speaking. I don't  
10:04AM 20 know what's it's like to be a court reporter in the arena of  
10:04AM 21 Zoom but even for me looking at the Hollywood Squares and  
10:04AM 22 trying to figure out who is actually speaking is problematic.  
10:04AM 23 So go ahead and announce yourself each time you speak and I'll  
10:04AM 24 try to do the same. Ms. Duque, I'm going to have the  
10:04AM 25 defendants call their first witness and I'm going to have you

10:04AM 1 swear that person in.

10:05AM 2 THE CLERK: Thank you.

10:05AM 3 MS. JAWORSKI: This is Myriah Jaworski on behalf of  
10:05AM 4 the ACV Auctions. We call Christopher Taylor.

10:05AM 5 (The witness was sworn at 10:05 a.m.)

10:05AM 6

10:05AM 7 DIRECT EXAMINATION

10:05AM 8

10:05AM 9 BY MS. JAWORSKI:

10:05AM 10 Q. Good morning. As mentioned, my name is Myriah Jaworski.

10:05AM 11 I'm counsel for defendant ACV Auctions. Can you see and hear  
10:05AM 12 me all right?

10:05AM 13 A. Yes, I can.

10:05AM 14 Q. If you experience any technological glitches, frozen  
10:05AM 15 screens, et cetera, just let me know. I can easily repeat  
10:05AM 16 the questions.

10:05AM 17 A. Will do.

10:05AM 18 Q. Mr. Taylor, please introduce yourself to the Court.

10:05AM 19 A. Hi. My name is I'm Christopher Taylor. I'm the owner or  
10:05AM 20 co-owner of Certified Auto Brokers here at 1693 Grand Island  
10:05AM 21 Boulevard in Grand Island, New York.

10:06AM 22 Q. And where do you live?

10:06AM 23 A. At 4025 West River Road also here in Grand Island, New  
10:06AM 24 York.

10:06AM 25 Q. And what do you do for a living?

10:06AM	1	A. I am the owner of this car dealership.
10:06AM	2	Q. And how many years of experience do you have in the
10:06AM	3	automobile sales industry?
10:06AM	4	A. Seventeen years.
10:06AM	5	Q. And what type of vehicles does Certified Auto Brokers
10:06AM	6	sell?
10:06AM	7	A. Used vehicles.
10:06AM	8	Q. Does it sell new cars?
10:06AM	9	A. No.
10:06AM	10	Q. Does Certified Auto Brokers post its inventory online?
10:06AM	11	A. Most of it. Yes.
10:06AM	12	Q. Does it post its hours of operation online?
10:06AM	13	A. Yes.
10:06AM	14	Q. When did Certified Auto Brokers open its doors and start
10:06AM	15	operating?
10:06AM	16	A. In September 2010.
10:06AM	17	Q. Has Certified Auto Brokers ever expanded its facility?
10:06AM	18	A. Several times. Yes.
10:06AM	19	Q. I would like to draw your attention to a ceremony, a
10:07AM	20	ribbon cutting ceremony, in 2016. If you recall, can you
10:07AM	21	explain what occurred then?
10:07AM	22	A. That was well, to-date, our largest expansion. We had
10:07AM	23	expanded the footprint of our lot, the actual storage
10:07AM	24	facility for the vehicles that are for sale as well as made a
10:07AM	25	significant expansion to the service area, to the building as

10:07AM 1 a whole. We added four bays of service to our store. So  
10:07AM 2 that would have been the ribbon cutting ceremony for that.

10:07AM 3 Q. Do you recall the date of the ribbon cutting ceremony?

10:07AM 4 A. I do not.

10:07AM 5 Q. I'm going to share my screen. One moment please. Can  
10:07AM 6 you see my screen?

10:07AM 7 A. Yes, I can.

10:07AM 8 Q. This is what's already in the record as Exhibit A to the  
10:07AM 9 affidavit of Nathan McMurray. It's on Docket 73 and the  
10:07AM 10 affidavit is dated September 27th, 2021. Mr. Taylor, do you  
10:08AM 11 recognize this picture?

10:08AM 12 A. I do. Yes.

10:08AM 13 Q. And what is it?

10:08AM 14 A. That would be a picture from the ribbon cutting ceremony  
10:08AM 15 that we were just speaking about. That's Travis, my partner,  
10:08AM 16 next to me and myself cutting the ribbon with some of the  
10:08AM 17 town council, Mr. McMurray, and some of the Chamber of  
10:08AM 18 Commerce folks as well as a number of my employees there  
10:08AM 19 behind me.

10:08AM 20 Q. And it says in this picture that the event was held on  
10:08AM 21 July 6th. Do you recall the year?

10:08AM 22 A. Five years ago so 2016.

10:08AM 23 Q. And again, could you identify any of the individuals in  
10:08AM 24 this picture?

10:08AM 25 A. I could identify them all if you want me to.



10:08AM 1 Q. Yes, please.

10:08AM 2 A. Starting from the left is Jim Sharpe. He's politician

10:08AM 3 from Grand Island. I think he was maybe on the Chamber of

10:08AM 4 Commerce at the time. Below him is Frank, I can't remember

10:08AM 5 his last name. He was in detail and one of our employees.

10:09AM 6 Eric Finkelborn is then right next to him. He is the

10:09AM 7 president of the Grand Island Chamber of Commerce. Behind

10:09AM 8 me, off my left shoulder there, I'm forgetting his name. He

10:09AM 9 was a -- I believe he was a councilman at the time.

10:09AM 10 Travis Smith, right next to me, my business partner.

10:09AM 11 Behind him was another gentleman and now I'm forgetting his

10:09AM 12 name. He was an employee here about five years ago. Next to

10:09AM 13 him is Alec Metro. He's currently our marketing director.

10:09AM 14 Next to him, the head above Mr. McMurray's shoulder is Joel

10:09AM 15 Finlasen. He's our service manager. And then, of course, Mr.

10:09AM 16 McMurray. Next to him, I don't -- I can't identify who that

10:09AM 17 is in this picture.

10:09AM 18 And then next to Mr. McMurray, the woman, maybe it's Liz

10:10AM 19 Wilbur. I think she was also a -- I don't know if -- she

10:10AM 20 wasn't on the town council. I think she was on one of the

10:10AM 21 boards or something like that. I can't recall her name off

10:10AM 22 the top of my head.

10:10AM 23 Q. So you've identified Mr. McMurray and it sounds like

10:10AM 24 other representatives of town government were in attendance

10:10AM 25 at this ribbon cutting ceremony, correct?

10:10AM 1 A. Correct.

10:10AM 2 Q. And members of the Grand Island Chamber of Commerce,  
10:10AM 3 correct?

10:10AM 4 A. Correct.

10:10AM 5 Q. And in what capacity was Mr. McMurray invited to this  
10:10AM 6 ribbon cutting, if you know?

10:10AM 7 A. He was the town supervisor at the time. I think  
10:10AM 8 typically when we do one of these things, you know, we're car  
10:10AM 9 salesmen, so we take as much publicity as we can, but we try  
10:10AM 10 to get everybody in the town. I sent out an invite usually  
10:10AM 11 to all the -- almost to the entire town hall.

10:10AM 12 Q. He was invited as a local politician?

10:10AM 13 A. Yes. He was -- I believe he was the town supervisor at  
10:10AM 14 the time.

10:10AM 15 Q. And again, you testified that I was in 2016 correct?

10:10AM 16 A. Correct to the best of my recollection.

10:11AM 17 Q. I'm going to stop sharing my screen. Mr. Taylor, are you  
10:11AM 18 familiar with something known as the West Road Shoreline  
10:11AM 19 Trail?

10:11AM 20 A. Yes I am.

10:11AM 21 Q. And what is it?

10:11AM 22 A. It was -- there used to be a parkway a 55 mile-an-hour  
10:11AM 23 parkway that went along the shoreline of West River Road,  
10:11AM 24 which is where I live. They eliminated that parkway and  
10:11AM 25 turned it into a bike path. And I guess part -- it was

10:11AM 1 always a park. It was always part of the state parks, but  
10:11AM 2 they eliminated the parkway and turned it into a bike path.

10:11AM 3 Q. And what time period was this that they eliminated the  
10:11AM 4 parkway and turned it into a trail or a bike path?

10:11AM 5 A. I can only give you a ballpark, three to five years ago.

10:11AM 6 Q. And at the time, did you have a position on the West Road  
10:11AM 7 River Trail?

10:11AM 8 A. I didn't take up too much of a position but I was kind of  
10:12AM 9 for it. My house is right at the beginning of the parkway  
10:12AM 10 and was, in the summertime, often the location of many drag  
10:12AM 11 races late at night. So the parkway being gone was a  
10:12AM 12 positive for my house I think, you know? It just got a lot  
10:12AM 13 quieter after the parkway was gone.

10:12AM 14 Q. I'm going to share my screen to show you the affidavit of  
10:12AM 15 Mr. McMurray. One moment. Can you see my screen?

10:12AM 16 A. Yes.

10:12AM 17 Q. I would like to direct you to paragraph 6 of the McMurray  
10:12AM 18 affidavit which reads, I am proud of the West River Trail.

10:12AM 19 Today, the trail is quite beautiful and widely embraced, but  
10:12AM 20 at the time, Mr. Taylor told me on numerous occasions that he  
10:12AM 21 was against the trail. On one occasion, he yelled at me,  
10:12AM 22 saying that I was ruining his dream home. You just testified  
10:12AM 23 that you were generally in favor of the West Road Shoreline  
10:12AM 24 Trail; is that correct?

10:12AM 25 A. Yes, that's correct.

10:13AM 1 Q. So is it incorrect for McMurray to say that you oppose  
10:13AM 2 the trail?

10:13AM 3 A. Completely.

10:13AM 4 Q. Do you recall making any statements to Mr. McMurray about  
10:13AM 5 the West River Road Shoreline Trail?

10:13AM 6 A. I did not.

10:13AM 7 Q. Did you communicate your displeasure about the trail or  
10:13AM 8 anything associated with the trail to Mr. McMurray?

10:13AM 9 A. Never. I was for the trail.

10:13AM 10 Q. Do you have any understanding of Mr. McMurray's  
10:13AM 11 statements that on one occasion you yelled at him and said it  
10:13AM 12 was ruining his dream home?

10:13AM 13 A. I did not yell at Mr. McMurray and I do not recall that  
10:13AM 14 conversation at all. I can say probably that he probably --  
10:13AM 15 there was a lot of opposition to it and I was a house in a  
10:13AM 16 row of 30 homes with no, you know, keep the parkway signs in  
10:13AM 17 their yards. I was not a participant of that, so maybe he's  
10:13AM 18 got me confused with somebody else.

10:13AM 19 Q. Did you ever have cause to interact with Mr. McMurray  
10:14AM 20 about any other town-oriented proposals?

10:14AM 21 A. Only interactions we ever had were again, you know,  
10:14AM 22 invites to things like the ribbon cutting. He was  
10:14AM 23 occasionally involved. I was a committee member for the  
10:14AM 24 DeGlopper Memorial Committee which was a memorial that we  
10:14AM 25 worked to put together for the those that were killed in

10:14AM 1 action on the Town of Grand Island. My uncle was one of them

10:14AM 2 memorialized there. Mr. McMurray would occasionally come to

10:14AM 3 ceremonies for that and I think he attended a meeting or two.

10:14AM 4 So those are the only time I can ever remember, you know,

10:14AM 5 being in the same general vicinity as Mr. McMurray.

10:14AM 6 Q. And do you use the trail today?

10:14AM 7 A. Often. I have a one-year-old and three-year-old, so --

10:14AM 8 Q. Are you related to Mr. McMurray in any way?

10:14AM 9 A. No.

10:14AM 10 Q. Are you related to any HoganWillig attorney?

10:15AM 11 A. No.

10:15AM 12 Q. Do you have any personal animus against Mr. McMurray

10:15AM 13 based on any of your prior interactions with him in the

10:15AM 14 2016-2017 time period?

10:15AM 15 A. Not at all.

10:15AM 16 Q. Have you ever sought legal counsel for Mr. McMurray?

10:15AM 17 A. I have not.

10:15AM 18 Q. Have you ever sought legal counsel from anyone at the law

10:15AM 19 firm of HoganWillig?

10:15AM 20 A. I have not.

10:15AM 21 Q. Have you ever been a client of Mr. McMurray's?

10:15AM 22 A. I have not.

10:15AM 23 Q. Have you ever been a client of HoganWillig's?

10:15AM 24 A. I have not.

10:15AM 25 Q. I'd like to now draw your attention to the events of

10:15AM 1 July 22nd, 2021 which is the subject matter of today's  
10:15AM 2 hearing. Can you please describe what you recall about the  
10:15AM 3 events of July 22nd, 2021?

10:15AM 4 A. Yeah. It was the end of business. We were just kind of  
10:15AM 5 wrapping up the day and I believe I was outside doing what we  
10:16AM 6 call lot walk, which is just making sure vehicles were where  
10:16AM 7 they needed to be, things were secured. I came back in the  
10:16AM 8 front door of the building and noticed that one of my sales  
10:16AM 9 representatives, Tim Renzoni, was in his office with what I  
10:16AM 10 believed to be a customer. As I approached, I noticed I  
10:16AM 11 recognized the customer and it was Mr. McMurray.

10:16AM 12 So, at that point, I walked in and said hello. And he  
10:16AM 13 remembered who I was. And then Tim chimed in and just said,  
10:16AM 14 Mr. McMurray was here looking at a truck. So I obviously  
10:16AM 15 jumped into that, asking him what he was looking for. That  
10:16AM 16 conversation lasted about a minute and then Mr. McMurray asked  
10:16AM 17 me or said that he had actually something he'd like to talk to  
10:16AM 18 me about and asked if we could speak in private.

10:17AM 19 Q. And then what happened?

10:17AM 20 A. I said, yes and it was a bit -- it was very awkward  
10:17AM 21 because we're in a fairly small office with Tim. I'm in  
10:17AM 22 between the door. Tim kind of gestured to leave but  
10:17AM 23 Mr. McMurray jumped kind of right into the conversation. I  
10:17AM 24 recall looking at Tim with a, you know, what do we do now  
10:17AM 25 look and Mr. McMurray just continued on with his pitch,

10:17AM 1 which -- he started in asking me if I did work with ACV. I  
10:17AM 2 wasn't real sure where the questioning was going, but then he  
10:17AM 3 started to talk about the current lawsuit. Then he asked me  
10:17AM 4 if I was aware that he works for the firm that was  
10:17AM 5 representing the -- so he explained to me that he worked for  
10:18AM 6 HoganWillig and HoganWillig was the law firm representing a  
10:18AM 7 couple of dealerships. He mentioned their names, Sunshine  
10:18AM 8 something-or-other and another local dealer. He -- sorry.  
10:18AM 9 Go ahead.

10:18AM 10 Q. No. Continue.

10:18AM 11 A. He dove into the lawsuit, how he believed that ACV  
10:18AM 12 Auctions and, very specifically, he referred to Mr. Nieman,  
10:18AM 13 Joe Nieman, the founder, several times. He asked them -- or  
10:18AM 14 he asked -- he told me that they had been accused of shill  
10:18AM 15 bidding and then got into some legal terms I didn't  
10:18AM 16 understand, RICO, and things like that. He then went on to  
10:18AM 17 state that or he then went on to ask me -- this is where  
10:19AM 18 things got weird.

10:19AM 19 He went on to ask me, you know, how I felt about Joe  
10:19AM 20 Nieman personally, how I felt about his success. I felt like  
10:19AM 21 he was implying that Joe had become successful by the use of,  
10:19AM 22 you know, maybe tactics that weren't truthful. He then asked  
10:19AM 23 how my relationship was with ACV Auctions as a working  
10:19AM 24 relationship. And then he, after I answered those questions,  
10:19AM 25 he went on to say that they'd like to talk to me further. He

10:19AM 1 implied that I would come onto the lawsuit -- if I came into  
10:19AM 2 the lawsuit, there was a large lawsuit monetarily and if I  
10:19AM 3 joined the lawsuit and they won, of course, then we could  
10:19AM 4 financially benefit from that. And then he asked me --  
10:19AM 5 Q. Excuse me. So he asked you to join the lawsuit, is that  
10:20AM 6 your testimony here today?  
10:20AM 7 A. Yeah. He asked he to join the lawsuit. I did tell him  
10:20AM 8 that it was something I would consider then. He asked me to  
10:20AM 9 -- if I would be willing to meet with him and it sounded like  
10:20AM 10 other attorneys or other representatives of HoganWillig at  
10:20AM 11 their office.  
10:20AM 12 Q. When he asked you to join the lawsuit, who did he say  
10:20AM 13 would you representing you in the lawsuit?  
10:20AM 14 A. HoganWillig.  
10:20AM 15 Q. And how long did this conversation last for?  
10:20AM 16 A. Ten to fifteen minutes.  
10:20AM 17 Q. And what portion of your communications with Mr. McMurray  
10:20AM 18 were a discussion of the lawsuit?  
10:20AM 19 A. Everything but -- that was what was odd about the  
10:20AM 20 conversation, was that it was one minute of a truck and the  
10:20AM 21 rest of it was the lawsuit.  
10:20AM 22 Q. And to be clear, he initiated the discussion of the  
10:20AM 23 lawsuit with you, correct?  
10:20AM 24 A. One hundred percent. I was unaware that he worked -- at  
10:20AM 25 that moment, I didn't know that he worked for HoganWillig.



10:21AM 1 MR. YANKELUNAS: Object to the leading, Judge. I  
10:21AM 2 should have objected earlier.

10:21AM 3 THE COURT: Yes. So it was leading. You objected  
10:21AM 4 too late. Don't lead anymore.

10:21AM 5 MS. JAWORSKI: Understood.

10:21AM 6 BY MS. JAWORSKI:

10:21AM 7 Q. Who else was present with you and Mr. McMurray?

10:21AM 8 A. Mr. Tim Renzoni.

10:21AM 9 Q. Did Mr. McMurray make any statements to you about money?

10:21AM 10 A. He just mentioned that the lawsuit was for a large sum or  
10:21AM 11 I can't recollect his exact words, but he made it known that  
10:21AM 12 the lawsuit, if they won the lawsuit, there would be a lot of  
10:21AM 13 money involved. And he specifically stated that if we were a  
10:21AM 14 part of the lawsuit, then we would have a piece of that.

10:21AM 15 Q. How did the conversation with Mr. McMurray make you feel?

10:22AM 16 A. Very uncomfortable.

10:22AM 17 Q. And based on his statement to you, what did you perceive  
10:22AM 18 Mr. McMurray's purpose was in speaking with you?

10:22AM 19 MR. YANKELUNAS: Object to the form. It's leading.

10:22AM 20 THE COURT: That is -- it's not so much that it's  
10:22AM 21 leading, it's asking him to look into the state of mind and  
10:22AM 22 intent of somebody else. So you can ask the same question  
10:22AM 23 differently, but the stated purpose, as far as this witness is  
10:22AM 24 concerned, is what's said to him, unless there is some other  
10:22AM 25 information that he's gathering.

10:22AM 1 BY MS. JAWORSKI:

10:22AM 2 Q. Did Mr. McMurray state the purpose of his communications

10:22AM 3 with you?

10:22AM 4 A. Yes.

10:22AM 5 Q. What was the purpose as stated to you?

10:22AM 6 A. The first minute was looking into buying a truck and the

10:22AM 7 next 15 minutes were to join the lawsuit.

10:23AM 8 Q. I'd like to, again, share the McMurray affidavit by share

10:23AM 9 screen with you. One moment. I'd like to draw your

10:23AM 10 attention to paragraph 11 and specifically, the third

10:23AM 11 sentence which states, he, meaning you Christopher Taylor,

10:23AM 12 gave me a business card. Did you give Mr. McMurray your

10:23AM 13 business card?

10:23AM 14 A. No.

10:23AM 15 Q. Do you have a business card?

10:23AM 16 A. I do not.

10:23AM 17 Q. So would you agree that it's incorrect for Mr. McMurray

10:23AM 18 to state that you gave him a business card?

10:23AM 19 A. Yes. I had not had business cards for years.

10:23AM 20 MR. YANKELUNAS: Objection. That's not what the

10:23AM 21 affidavit says.

10:23AM 22 MS. JAWORSKI: Mr. Taylor --

10:23AM 23 THE COURT: So the question is asking him whether

10:23AM 24 it's incorrect. You have to actually be verbatim about what's

10:23AM 25 said in the affidavit. You can't paraphrase it and then ask

10:24AM 1 him if it's correct.

10:24AM 2 MS. JAWORSKI: I apologize my screen just froze. Was  
10:24AM 3 there an objection to my question?

10:24AM 4 MR. YANKELUNAS: Yes.

10:24AM 5 BY MS. JAWORSKI:

10:24AM 6 Q. Mr. Taylor, did you see paragraph 11, sentence 3, of the  
10:24AM 7 McMurray affidavit?

10:24AM 8 A. Yes, I did.

10:24AM 9 Q. Did you give Mr. McMurray your business card?

10:24AM 10 A. No I did not.

10:24AM 11 Q. Do you have a business cord?

10:24AM 12 A. No I do not.

10:24AM 13 Q. Following Mr. McMurray's visit to Certified Auto Brokers,  
10:24AM 14 did you ever call Mr. McMurray?

10:24AM 15 A. No I did not.

10:24AM 16 Q. Did you take Mr. McMurray up on his offer to meet with  
10:24AM 17 him at HoganWillig's office?

10:24AM 18 A. No I did not.

10:24AM 19 Q. Did Mr. McMurray ever contact you?

10:24AM 20 A. I believe so.

10:24AM 21 Q. Can you explain?

10:24AM 22 A. I received a call a day or two later from a phone number,  
10:24AM 23 a local number. This might seem odd, but I Google searched  
10:24AM 24 it because it didn't leave a voicemail, it's something I  
10:25AM 25 commonly do, and that number came back to HoganWillig.

10:25AM 1 Q. And is that a standard practice of yours to Google  
10:25AM 2 numbers that you don't recognize.

10:25AM 3 A. Yeah. Again, it seems maybe odd but sometimes I need to  
10:25AM 4 call somebody back. They might not leave a voicemail for one  
10:25AM 5 reason or the other. If they're important, then I want to  
10:25AM 6 call them back or honestly, I might want to avoid talking to  
10:25AM 7 them, so I like to know who I'm calling first.

10:25AM 8 Q. And in the days following Mr. McMurray's visit and offer  
10:25AM 9 to represent CAB in a lawsuit, what, if anything, did you do?

10:25AM 10 A. Can you repeat the question?

10:25AM 11 Q. In the days following McMurray's visit to CAB?

10:25AM 12 A. Right. Sure.

10:25AM 13 Q. What, if anything, did you do?

10:25AM 14 A. As I stated before, I was really uncomfortable with the  
10:25AM 15 conversation. I didn't know that, obvious, this would come  
10:25AM 16 of it, but I was very uncomfortable with the conversation. I  
10:25AM 17 didn't like his line of questioning and I felt that it was  
10:26AM 18 important that somebody from ACV was at least aware of this.

10:26AM 19 I didn't really think a whole lot of it, but I reached  
10:26AM 20 out to my sales manager who has a close relationship with one  
10:26AM 21 of the managers there at ACV Auctions and I told my sales  
10:26AM 22 manager that I think he should reach out to his contact at  
10:26AM 23 ACV and just simply let him know that there was an attorney  
10:26AM 24 out there soliciting dealers for this lawsuit. And so,  
10:26AM 25 that's what he did. He reached out to a contact at ACV.

10:26AM 1 That contact, about a day later, I think, reached out to me  
10:26AM 2 and asked me if I'd be willing to speak with their legal  
10:26AM 3 counsel.

10:26AM 4 Q. Returning to the communication that you had with  
10:26AM 5 Mr. McMurray on July 22nd, 2021, you indicated just now that  
10:27AM 6 there was an attorney soliciting other dealers. Did  
10:27AM 7 Mr. McMurray say anything to you about other dealerships?

10:27AM 8 A. Yes.

10:27AM 9 MR. YANKELUNAS: Objection, Judge. It's a multiple  
10:27AM 10 question and it's also leading.

10:27AM 11 THE COURT: It's not necessarily leading because she  
10:27AM 12 is building off of what the witness said and it's proper  
10:27AM 13 question and if you can answer it, you may answer it.

10:27AM 14 THE WITNESS: Yes. He had mentioned that he had  
10:27AM 15 spoken with other dealers and was looking to speak with other  
10:27AM 16 dealers. He also, at one point, asked me if I knew any other  
10:27AM 17 dealers that may be interested in this.

10:27AM 18 BY MS. JAWORSKI:

10:27AM 19 Q. And that's dealers plural or singular?

10:27AM 20 A. That's plural.

10:27AM 21 Q. Thank you. Returning to your decision to contact an ACV  
10:27AM 22 representative, as you just testified to, what happened next?

10:27AM 23 A. That ACVA representative reached out to me and asked if  
10:27AM 24 I'd be willing to meet with their legal counsel.

10:28AM 25 Q. And did you meet with their legal counsel?

10:28AM 1 A. Yes I did.

10:28AM 2 Q. And what happened next?

10:28AM 3 A. They just -- he just asked me a series of questions

10:28AM 4 similar to these, as to what occurred during our brief

10:28AM 5 meeting at the dealership and I told him what I recalled.

10:28AM 6 Q. Did you prepare an affidavit?

10:28AM 7 A. Yes I did. Yeah. They asked me to sign a legal -- an

10:28AM 8 affidavit. Yeah. Go on record.

10:28AM 9 Q. And did you review and authorize the affidavit prior to

10:28AM 10 its filing?

10:28AM 11 A. Yes I did.

10:28AM 12 Q. Did you review the affidavit for accuracy and

10:28AM 13 truthfulness?

10:28AM 14 A. Yes I did.

10:28AM 15 Q. Did anyone pressure you or require you to submit the

10:28AM 16 affidavit?

10:28AM 17 A. Not at all.

10:28AM 18 Q. Are you being compensated for your time here today?

10:28AM 19 A. No.

10:28AM 20 Q. Has ACV made any promises to you in exchange for your

10:28AM 21 testimony?

10:29AM 22 A. None.

10:29AM 23 Q. Has anyone made any promises to you in exchange for your

10:29AM 24 testimony?

10:29AM 25 A. No.

10:29AM 1 Q. You have counsel representing you today, correct?

10:29AM 2 A. Yes I do.

10:29AM 3 Q. And you are here pursuant to a court-ordered subpoena  
10:29AM 4 issued by HoganWillig; is that right?

10:29AM 5 A. That's correct.

10:29AM 6 MS. JAWORSKI: We have no further questions at this  
10:29AM 7 time but reserve the opportunity for redirect.

10:29AM 8 THE COURT: Any cross?

10:29AM 9 MR. YANKELUNAS: Yes, Your Honor.

10:29AM 10

10:29AM 11 CROSS-EXAMINATION

10:29AM 12

10:29AM 13 MR. YANKELUNAS:

10:29AM 14 Q. Mr. Taylor, you indicated that you were contacted by  
10:29AM 15 someone at ACV, but you didn't identify who that was. Who  
10:29AM 16 contacted you?

10:29AM 17 A. James. We call him Jamie. I'm not sure what his full  
10:29AM 18 legal name is, but Jamie Rayman.

10:29AM 19 Q. Okay. Did you speak to Joe Nieman about your  
10:29AM 20 conversation with Mr. McMurray?

10:29AM 21 A. No I did not.

10:29AM 22 Q. Okay. Now you testified about your ribbon cutting  
10:29AM 23 ceremony in 2017 I believe it was; is that right?

10:30AM 24 A. I thought it was '16, but it could be '17. I'm not the  
10:30AM 25 best.

10:30AM 1 Q. Now Mr. McMurray was there?

10:30AM 2 A. Yes.

10:30AM 3 Q. He was there because you asked him to be there?

10:30AM 4 A. Yes.

10:30AM 5 Q. Okay. Were there other occasions when you asked for

10:30AM 6 Mr. McMurray's support in his capacity as a town supervisor?

10:30AM 7 A. Directly, not that I recall.

10:30AM 8 Q. Indirectly?

10:30AM 9 A. Again I worked on the DeGlopper Memorial Committee so,

10:30AM 10 you know, possibly.

10:30AM 11 Q. Okay. Well, you were active in town politics; is that

10:30AM 12 true?

10:30AM 13 A. No. Not at all.

10:30AM 14 Q. You didn't consider Mr. McMurray to be someone you had a

10:30AM 15 political association with, either for or against?

10:30AM 16 A. No. Not at all.

10:30AM 17 Q. Now you certainly knew Mr. McMurray before July 22nd,

10:30AM 18 2021, correct?

10:30AM 19 A. Correct. Yes.

10:30AM 20 Q. All right. Why isn't that in your affidavit?

10:31AM 21 A. I don't know. Maybe somebody didn't -- I don't know.

10:31AM 22 Q. You don't know. Now when you spoke to ACV, did you

10:31AM 23 indicate to Mr. ACV that you knew Mr. Taylor?

10:31AM 24 A. I am Mr. Taylor.

10:31AM 25 Q. Sorry. Mr. McMurray?



10:31AM 1 A. I don't recall.

10:31AM 2 Q. Okay. Well you read your affidavit for accuracy. You

10:31AM 3 just testified to that?

10:31AM 4 A. Yes.

10:31AM 5 Q. And you noticed, I assume, that there was no reference to

10:31AM 6 you knowing Mr. McMurray?

10:31AM 7 A. I did not notice until you just brought it up.

10:31AM 8 Q. Never occurred to you that that might be some important

10:31AM 9 you should disclose?

10:31AM 10 A. No. I thought, you know, no.

10:31AM 11 Q. Do you have your affidavit handy sir?

10:31AM 12 A. I do. Yeah.

10:31AM 13 Q. Paragraph 4. When I walked in, I saw Nate McMurray, who

10:31AM 14 I now know to be an attorney at HoganWillig, speaking with

10:31AM 15 one of the salespeople. Now you knew when you walked in he

10:32AM 16 was the former town supervisor, correct?

10:32AM 17 A. I said that in the beginning of this testimony.

10:32AM 18 Q. Yeah, but you didn't say that in the affidavit. That's

10:32AM 19 my point sir. Next one, 29?

10:32AM 20 A. I'm sorry. Say again.

10:32AM 21 Q. Paragraph 29 of your affidavit?

10:32AM 22 A. Yeah.

10:32AM 23 Q. I had never heard of HoganWillig before Mr. McMurray

10:32AM 24 walked into my dealership.

10:32AM 25 A. Correct.

10:32AM 1 Q. Did I read that correctly?

10:32AM 2 A. Yes.

10:32AM 3 Q. Again, once -- you certainly knew who Mr. McMurray was in  
10:32AM 4 his capacity as town supervisor?

10:32AM 5 A. One hundred percent.

10:32AM 6 Q. Yeah. You sure did.

10:32AM 7 THE COURT: So, let's not do that.

10:32AM 8 MR. YANKELUNAS: I'm sorry, Judge.

10:32AM 9 THE COURT: If you want an answer -- when I, the  
10 Judge is talking, nobody else is talking. You don't answer  
11 back and let's make sure the questions are not purely  
12 argumentative.

10:33AM 13 MR. YANKELUNAS: All right.

10:33AM 14 BY MR. YANKELUNAS:

10:33AM 15 Q. But let's make sure we're clear on this, Judge -- I'm  
10:33AM 16 sorry, Mr. Taylor -- you didn't disclose that you knew  
10:33AM 17 Mr. McMurray.

10:33AM 18 A. Yes, but let's also be clear since you're obviously  
10:33AM 19 taking this is in a direction, I didn't do that deliberately.  
10:33AM 20 There was --

10:33AM 21 Q. Yeah because --

10:33AM 22 A. You know --

10:33AM 23 Q. Well --

10:33AM 24 A. I -- honestly, in my head, it's implied. I own a  
10:33AM 25 business in the town that he was the town supervisor. So I

10:33AM 1 apologize. I didn't -- you know, I'm not an attorney. I  
10:33AM 2 don't get nitty-gritty with the details and I understand that  
10:33AM 3 those are important.  
10:33AM 4 Q. But you read the affidavit and you understand that it  
10:33AM 5 creates the impression that Mr. McMurray was a stranger?  
10:33AM 6 A. I did not understand that at all. That's not --  
10:33AM 7 Q. Isn't that a fair reading of the affidavit, that he was a  
10:33AM 8 stranger?  
10:33AM 9 A. No. That is not fair.  
10:33AM 10 Q. How do you read the affidavit to say you knew him?  
10:33AM 11 A. I read the affidavit and I know that I knew him.  
10:33AM 12 Q. Well but -- because --  
10:33AM 13 THE COURT: This is not productive and it's also  
10:33AM 14 improper. So it says what it says. The Court will draw its  
10:34AM 15 own conclusions. Let's have a real question.  
10:34AM 16 BY MR. YANKELUNAS:  
10:34AM 17 Q. Now when you spoke with Mr. McMurray about ACV, was that  
10:34AM 18 in response to a question from you about what are you up to,  
10:34AM 19 something like that?  
10:34AM 20 A. No. No. It was directly in response -- his conversation  
10:34AM 21 about ACV was completely engaged on its own. He had asked  
10:34AM 22 me, as I stated in my affidavit, if I had a moment to speak  
10:34AM 23 privately because there was something else that I wanted to  
10:34AM 24 talk to you about, at which point, oddly, he just continued  
10:34AM 25 in the conversation about the lawsuit against ACV.

10:34AM 1 Q. Now somebody drafted the affidavit for you; is that  
10:34AM 2 correct sir?

10:34AM 3 A. Yes.

10:34AM 4 Q. One of ACV's attorneys?

10:34AM 5 A. Yeah. I guess. I guess. I don't recall.

10:34AM 6 Q. Was it Myriah Jaworski?

10:34AM 7 A. I don't recall for sure.

10:34AM 8 Q. But one of the attorneys for ACV?

10:34AM 9 A. I can't say for sure that it was an attorney, but it was  
10:35AM 10 a representative at least to some degree of ACV.

10:35AM 11 Q. Were you -- did you have the opportunity to tell that  
10:35AM 12 person that you knew Mr. McMurray?

10:35AM 13 A. I don't recall.

10:35AM 14 Q. But you chose not to, correct?

10:35AM 15 A. I chose not to what?

10:35AM 16 Q. You either chose not to or you didn't disclose it. Which  
10:35AM 17 was it?

10:35AM 18 A. I don't know.

10:35AM 19 Q. Okay.

10:35AM 20 MR. YANKELUNAS: Judge, we have stipulated certain  
10:35AM 21 items into evidence. One of them is going to be a business  
10:35AM 22 card Exhibit 1?

10:35AM 23 THE COURT: Okay.

10:35AM 24 MR. YANKELUNAS: On the screen now.

10:35AM 25 THE COURT: Exhibit 1 is admitted.

10:35AM 1 (Exhibit 1 was received in evidence.)

10:35AM 2

10:35AM 3 MR. YANKELUNAS: Yeah. We've stipulated them in,  
10:35AM 4 Judge.

10:35AM 5 THE COURT: So keep in mind that you can stipulate.  
10:35AM 6 I still have to admit it, right?

10:35AM 7 MR. YANKELUNAS: I'm sorry, Your Honor. We  
10:35AM 8 stipulated to what we stipulated to. I understand it has been  
10:36AM 9 admitted to, Your Honor. That's it.

10:36AM 10 THE COURT: Okay.

10:36AM 11 MR. YANKELUNAS: We'll get them on the screen now  
10:36AM 12 Judge.

10:36AM 13 MR. JOHNSEN: This Ryan Johnsen from HoganWillig.

10:36AM 14 MR. YANKELUNAS: There's a second page that's a  
10:36AM 15 little bit bigger. There we go. There's another page too, I  
10:36AM 16 think.

10:36AM 17 MR. JOHNSEN: This is page 1, Bates 1. This page 2  
10:36AM 18 just marked as Bates 2, and this is page 3, which is Bates 3.  
10:36AM 19 BY MR. YANKELUNAS:

10:37AM 20 Q. Mr. Taylor, can you identify this exhibit?

10:37AM 21 A. Yes. That is a business card from my office of Tim  
10:37AM 22 Renzoni's that is my name and my cell phone number in the  
10:37AM 23 middle there.

10:37AM 24 Q. Okay. That's a card that your firm issues in regular  
10:37AM 25 course of business; is that right?

10:37AM 1 A. That's correct.

10:37AM 2 Q. Is that your handwriting on the card, sir?

10:37AM 3 A. I can't say for sure. It could be. I can't say for  
10:37AM 4 sure.

10:37AM 5 Q. Is that your phone number?

10:37AM 6 A. Yes.

10:37AM 7 Q. Do you recall Mr. McMurray being given this card during  
10:37AM 8 your meeting with Mr. Renzoni?

10:37AM 9 A. I do not recall.

10:38AM 10 Q. But that is your phone number?

10:38AM 11 A. Yes.

10:38AM 12 Q. You don't have a business card of your own?

10:38AM 13 A. I know that's odd, but I do not.

10:38AM 14 Q. Did you discussion with Mr. McMurray -- strike that.

10:38AM 15 I can offer this later, but I'm offering it right now,  
10:38AM 16 Your Honor.

10:38AM 17 THE COURT: And I admitted it. So remember you told  
10:38AM 18 me that Exhibit 1 was stipulated to, I reminded you that the  
10:38AM 19 Judge admits the evidence, I admitted it, so it's in.

10:38AM 20 MR. YANKELUNAS: Okay. I'm sorry, Judge.

10:38AM 21 BY MR. YANKELUNAS:

10:38AM 22 Q. Do you see the reference to back lot?

10:38AM 23 A. Okay.

10:38AM 24 Q. Do you see it?

10:38AM 25 A. I can't read it, but if you say it's back lot, I can see

10:38AM 1 how that could be back lot.

10:38AM 2 Q. Now, I'll get to that in a second, but do you recall how

10:38AM 3 this card had gotten to Mr. McMurray's possession?

10:38AM 4 A. No. I've already told you I do not.

10:38AM 5 Q. You don't recall whether Mr. Renzoni gave it to him?

10:39AM 6 A. No.

10:39AM 7 Q. Do you recall writing your name and phone number on this

10:39AM 8 car during your meeting with Mr. McMurray?

10:39AM 9 A. I do not recall.

10:39AM 10 Q. Do you have any question, reservation, do you doubt for a

10:39AM 11 minute that that's your handwriting where it says Christopher

10:39AM 12 Taylor?

10:39AM 13 A. It certainly looks like it could be. I don't doubt it.

10:39AM 14 Q. Well can we agree that it is your handwriting and that's

10:39AM 15 your phone number?

10:39AM 16 A. No, we cannot agree to that.

10:39AM 17 Q. That is your phone number?

10:39AM 18 A. Yes. That's my phone number. Yes. That we can agree to

10:39AM 19 and have agreed to.

10:39AM 20 Q. But you're telling me you can't recognize your own

10:39AM 21 handwriting? That's not your signature? You didn't write

10:39AM 22 that?

10:39AM 23 THE COURT: How is this not asked and answered

10:39AM 24 several times?

10:39AM 25 MR. YANKELUNAS: I'm sorry, Judge. Sorry.

10:39AM 1 BY MR. YANKELUNAS:

10:39AM 2 Q. You don't know what back lot refers to?

10:39AM 3 A. I'm assuming the back lot refers to one of ACV's

10:39AM 4 competitors but I'm not positive. I don't know.

10:39AM 5 Q. Do you know how it got there?

10:39AM 6 A. I do not.

10:39AM 7 Q. Did either you or Mister -- do you know whether either

10:40AM 8 you or Mr. Renzoni mentioned back lot to Mr. McMurray?

10:40AM 9 A. I don't recall that.

10:40AM 10 Q. Do you recall shill bidding being discussed during that

10:40AM 11 meeting with Mr. McMurray and Mr. Renzoni?

10:40AM 12 A. Yes, several times.

10:40AM 13 Q. Do you know what shill bidding is?

10:40AM 14 A. No. Up until recently, thought it was actually called

10:40AM 15 shell bidding, but --

10:40AM 16 Q. Up until when?

10:40AM 17 A. You know after this whole thing came to be, I learned

10:40AM 18 that it was shill and I was saying it wrong. I know what it

10:40AM 19 is now and I am aware of the practice in the past in the car

10:40AM 20 industry. We didn't call it shill bidding.

10:40AM 21 Q. You ever heard of shill bidding being mentioned in

10:40AM 22 relation to ACV before your meeting with Mr. McMurray?

10:40AM 23 A. No.

10:40AM 24 Q. Now is back lot in any way related to ACV?

10:41AM 25 A. Not to the best of my knowledge besides being in the



10:41AM 1 same --

10:41AM 2 Q. Is that something that would have been noted during a  
10:41AM 3 conversation about cars?

10:41AM 4 A. I don't know. I can't tell you. I don't recall.

10:41AM 5 Q. But it's -- back lot is a dealership that sells used  
10:41AM 6 cars, isn't it?

10:41AM 7 A. No. No they're not. Back lot is a wholesale platform,  
10:41AM 8 an online wholesale platform, very similar to ACV Auctions.

10:41AM 9 Q. Which sells cars, correct?

10:41AM 10 A. Correct, but they're not a dealership.

10:41AM 11 Q. Now did you agree to meet with Mr. McMurray at a later  
10:41AM 12 time?

10:41AM 13 A. I said I would consider it.

10:41AM 14 Q. Okay. Consider it for any particular purpose?

10:41AM 15 A. To discuss the lawsuit.

10:41AM 16 Q. As a potential --

10:41AM 17 A. Potentially coming on as a -- I don't know what you call  
10:42AM 18 it; plaintiff, client, or something of that nature.

10:42AM 19 Q. You just discussed becoming a witness in the case?

10:42AM 20 A. I don't think it was becoming a witness. It was  
10:42AM 21 discussing becoming a client of HoganWillig's.

10:42AM 22 Q. Did your company have a back lot where it keeps cars?

10:42AM 23 A. Yes.

10:42AM 24 Q. Could that be one of the reasons that that reference to  
10:42AM 25 back lot is on that card?

10:42AM 1 A. It could be. Again, I have absolutely no recollection of  
10:42AM 2 anything in regards to back lot. I just don't recall.  
10:42AM 3 Q. Now is there any discussion about attorneys fees in your  
10:42AM 4 meeting with Mr. McMurray?  
10:42AM 5 A. Not that I recall.  
10:42AM 6 Q. You had to sign a retainer agreement?  
10:42AM 7 A. No.  
10:42AM 8 Q. Were you asked to testify?  
10:42AM 9 A. No.  
10:42AM 10 Q. Now did you know that Mr. Renzoni and other people were  
10:43AM 11 making phone calls to Mr. McMurray after this July 22  
10:43AM 12 meeting?  
10:43AM 13 A. I would hope so. As a customer, we have a pretty  
10:43AM 14 stringent follow-up process to someone that comes in the  
10:43AM 15 store and doesn't buy a vehicle.  
10:43AM 16 Q. Were contacts with Mr. McMurray discussed with you after  
10:43AM 17 the July 22nd meeting?  
10:43AM 18 A. I don't recall.  
10:43AM 19 Q. But you wouldn't be surprised if there were followed --  
10:43AM 20 A. Definitely wouldn't be surprised.  
10:43AM 21 Q. Because that's what would in happen if someone's in your  
10:43AM 22 office looking for a car, right?  
10:43AM 23 A. Correct, 100 percent.  
10:43AM 24 Q. Now other than you calling ACV, did you do anything in  
10:43AM 25 response to this meeting with Mr. McMurray? In other words,

10:43AM 1 did you join, do anything in reference to the lawsuit?

10:44AM 2 A. Not that I recall.

10:44AM 3 Q. All right. Didn't agree to become a plaintiff in the  
10:44AM 4 lawsuit?

10:44AM 5 A. No, sir.

10:44AM 6 THE COURT: Can we take down this exhibit now?

10:44AM 7 MR. YANKELUNAS: Yes. Thank you.

10:44AM 8 BY MR. YANKELUNAS:

10:44AM 9 Q. You were shaking after your meeting with Mr. McMurray; is  
10:44AM 10 that correct?

10:44AM 11 A. I was. I was very nervous.

10:44AM 12 Q. So -- but you didn't have any trouble writing on a  
10:44AM 13 business card?

10:44AM 14 A. No, I can actually pull myself together.

10:44AM 15 Q. All right. You're pretty used to having contentious  
10:44AM 16 conversations with customers, aren't you?

10:44AM 17 MS. JAWORSKI: Objection. Argumentative.

10:44AM 18 THE COURT: I'll allow it.

10:44AM 19 THE WITNESS: I guess. I think we have a different  
10:44AM 20 kind of dealership here and a different kind of sales process,  
10:44AM 21 so it's not very common or as common as you'd think in the  
10:45AM 22 sales --

10:45AM 23 Q. How -- I'm sorry. How long have you been in business,  
10:45AM 24 sir?

10:45AM 25 A. For 11 years.

10:45AM 1 Q. And I assume that there have been some tough

10:45AM 2 conversations from time to time, right?

10:45AM 3 A. Sure, from time to time, absolutely.

10:45AM 4 Q. Do you shake every time you have a tough conversation

10:45AM 5 with somebody?

10:45AM 6 A. I'm literally shaking right now. It's just something

10:45AM 7 that I do when I have a little bit of nerves.

10:45AM 8 Q. Oh, I see.

10:45AM 9 MR. YANKELUNAS: One more second, Judge, I'm almost

10:45AM 10 done.

10:45AM 11 BY MR. YANKELUNAS:

10:45AM 12 Q. Did you refer to Joe Nieman in your conversation with

10:45AM 13 Mr. McMurray?

10:45AM 14 A. Only to respond to his questions. He had an odd number

10:45AM 15 series of questions in regards to Joe Nieman and our

10:46AM 16 relationship.

10:46AM 17 Q. Is Joe Nieman a friend of yours?

10:46AM 18 A. No, he's not.

10:46AM 19 Q. Is he a business associate of your's?

10:46AM 20 A. Only to the degree that we do business with ACV.

10:46AM 21 Q. Do you buy cars off the ACV online platform?

10:46AM 22 A. We do now. We just started here in the last probably 60

10:46AM 23 days at a normal rate. Back then, actually, we did not buy

10:46AM 24 cars from ACV.

10:46AM 25 Q. On July 22nd, 2021, you weren't buying cars from ACV at

10:46AM 1 all?

10:46AM 2 A. No. In the years that we had been signed up with them,  
10:46AM 3 we may have bought a handful, but it wasn't a regular  
10:46AM 4 occurrence. We just couldn't find the inventory we were  
10:46AM 5 looking for. We didn't really like the sales platform side  
10:46AM 6 of it.

10:46AM 7 Q. Did you have any objections to their sales tactics on  
10:46AM 8 July 22, 2021?

10:46AM 9 A. No. My only objection is that you can't tell who you're  
10:46AM 10 buying from. That always drove me nuts. I understand the  
10:46AM 11 reasoning behind it but that's why I didn't buy from the  
10:46AM 12 platform.

10:46AM 13 Q. Did you tell Mr. McMurray that you started with Joe  
10:47AM 14 Nieman?

10:47AM 15 A. Yeah. We started the same year. Our companies were  
10:47AM 16 founded the same year and Joe Nieman actually -- this is my  
10:47AM 17 degree of relationship, he and some other person physically  
10:47AM 18 signed us up at our office. So, yeah. So he -- we were  
10:47AM 19 like, I forget, number 14 which I'm proud of. They're a  
10:47AM 20 supersuccessful company here locally and we were one of the  
10:47AM 21 very early dealers to sign on with them.

10:47AM 22 Q. Did you speak to Mr. Nieman about the ACV class-action  
10:47AM 23 lawsuit?

10:47AM 24 A. I have not spoken with Mr. Nieman ever since that day  
10:47AM 25 11 years ago or 10 years ago, however long ago it was. That

10:47AM 1 was the last time I ever spoke with him.

10:47AM 2 MR. YANKELUNAS: Nothing further, Judge.

10:47AM 3 THE COURT: Any redirect?

10:48AM 4 MS. JAWORSKI: Yes, Your Honor.

10:48AM 5

10:48AM 6 REDIRECT EXAMINATION

10:48AM 7

10:48AM 8 BY MS. JAWORSKI:

10:48AM 9 Q. Mr. Taylor, you testified that in the 2016-2017 time

10:48AM 10 period, you knew Mr. McMurray in his capacity as a town

10:48AM 11 government official; is that correct?

10:48AM 12 A. Town supervisor. Yes.

10:48AM 13 Q. And when he walked into Certified Auto Brokers on

10:48AM 14 July 22nd, 2021, did you know that he was a practicing

10:48AM 15 attorney at the time?

10:48AM 16 A. I can't say that I did. No.

10:48AM 17 Q. Did you -- until he disclosed this to you, did you know

10:48AM 18 that he was an attorney with HoganWillig?

10:48AM 19 A. No I did not.

10:48AM 20 Q. So is it accurate to say that until he disclosed that to

10:48AM 21 you on July 22nd, 2021, you did not know him to be an

10:48AM 22 attorney at HoganWillig?

10:48AM 23 A. That is correct.

10:48AM 24 Q. How did the conversation with Mr. McMurray conclude?

10:48AM 25 A. Awkwardly as it began. Everybody kind of stood up and

10:48AM 1 Mr. McMurray said, you know, we'll reach out to you and thank  
10:48AM 2 you for your time and then Tim, being a good car salesman was  
10:49AM 3 trying to get as much information from Mr. McMurray as  
10:49AM 4 possible as far as contact information so that he could  
10:49AM 5 appropriately follow up with him as well as we really tried  
10:49AM 6 to redirect the conversation back to the sale of the vehicle,  
10:49AM 7 trying to identify what exactly he was looking for.

10:49AM 8 We didn't spend much time talking about it. I explained  
10:49AM 9 to him that we have 150 cars on the lot and whatever he  
10:49AM 10 wanted, if we didn't have it, we could get, but all this  
10:49AM 11 happened very, very quickly and then he kind of shuffled out  
10:49AM 12 the door after giving us some of that information.

10:49AM 13 Q. Did you offer to show him cars on the lot?

10:49AM 14 A. Absolutely. Yeah. Again -- so it was just a little odd  
10:49AM 15 because he never looked at any vehicles and again, we have a  
10:49AM 16 lot of vehicles. Somebody had asked me during this testimony  
10:49AM 17 do I -- are all my vehicles online? We have a lot of  
10:49AM 18 vehicles. We turn them very fast.

10:49AM 19 We sell 120 cars a month. We probably have 150 cars on  
10:50AM 20 the ground at any one given time, so getting them all, what we  
10:50AM 21 call, retail-ready and online for people to view sometimes can  
10:50AM 22 be difficult. So I explained to that Mr. McMurray and offered  
10:50AM 23 to show him vehicles that I thought might suit was he was  
10:50AM 24 looking for, but I think he had said that we could do that at  
10:50AM 25 a later date.

10:50AM 1 Q. And finally, with respect to your affidavit, aside from  
10:50AM 2 the interactions you had with Mr. McMurray some four to  
10:50AM 3 five years ago in his capacity as a town government official,  
10:50AM 4 did you intend to deceive the Court or anyone with respect to  
10:50AM 5 statements in your affidavit?

10:50AM 6 A. Not at all. That's what I want to make clear. No.

10:50AM 7 Q. And again, you reviewed the affidavit for truthfulness  
10:50AM 8 and accuracy, correct?

10:50AM 9 A. Yes, I did.

10:50AM 10 MS. JAWORSKI: Thank you. No further questions.

10:50AM 11 THE COURT: Any recross?

10:51AM 12 MR. YANKELUNAS: No, Judge.

10:51AM 13 THE COURT: Thank you. You -- Mr. Taylor, you are  
10:51AM 14 done and we'll have the next witness called by the defendants.

10:51AM 15 MR. RADEL: Your Honor, Robert Radel speaking. I'll  
10:51AM 16 just need a moment to get Mr. Renzoni.

10:53AM 17 (The witness was excused at 10:53 a.m.)

10:53AM 18 THE COURT: This is Judge Reiss. The deputy clerk is  
10:53AM 19 going to swear your after you're called as a witness.

10:53AM 20 MR. RADEL: Your Honor, a housekeeping matter first.  
10:53AM 21 I just wanted to make sure that we were done with Mr. Taylor.  
10:54AM 22 I had cut him loose unless this Court wants him to be kept  
10:54AM 23 available. He does have other business matters that he would  
10:54AM 24 like to attend to.

10:54AM 25 THE COURT: I was not -- I can't imagine him being



10:54AM 1 called on rebuttal and Mr. Marcus, have you completed your  
10:54AM 2 examination of him?

10:54AM 3 MR. YANKELUNAS: I am. This is Ed Yankelunas and  
10:54AM 4 Mr. Marcus is incorrect.

10:54AM 5 THE COURT: Okay.

10:54AM 6 MR. YANKELUNAS: I'm done with him, Judge.

10:54AM 7 MR. RADEL: Thank you, Your Honor.

10:54AM 8 MS. JAWORSKI: Defendant ACV Auctions calls Tim  
10:54AM 9 Renzoni.

10:54AM 10 (The witness was sworn at 10:54 a.m.)

10:54AM 11 THE CLERK: Please state your full name and spell it  
10:54AM 12 for the record.

10:54AM 13 THE WITNESS: Yes. My name Timothy Renzoni, spelled  
10:55AM 14 R-E-N-Z-O-N-I.

10:55AM 15

10:55AM 16 DIRECT EXAMINATION

10:55AM 17

10:55AM 18 BY MS. JAWORSKI:

10:55AM 19 Q. Good morning, Mr. Renzoni.

10:55AM 20 A. Good morning.

10:55AM 21 Q. My name is Myriah Jaworski. I'm counsel for defendant  
10:55AM 22 ACV Auctions. Can you hear and see me all right?

10:55AM 23 A. I can. Thank you.

10:55AM 24 Q. Okay. If we have any glitches or technology issues, just  
10:55AM 25 raise your hand and I can repeat my questions.

10:55AM 1 A. Thank you.

10:55AM 2 Q. Mr. Renzoni, can you please introduce yourself to the  
10:55AM 3 Court?

10:55AM 4 A. Yes. My name is Timothy Renzoni. I'm a sales person  
10:55AM 5 here at Certified Auto Brokers.

10:55AM 6 Q. And where do you live?

10:55AM 7 A. I live in North Buffalo.

10:55AM 8 Q. And how long have you been a car salesman with Certified  
10:55AM 9 Auto Brokers?

10:55AM 10 A. Slightly over three years.

10:55AM 11 Q. And what was your job experience before that?

10:55AM 12 A. Car sales.

10:55AM 13 Q. For how long have you been in the car sales industry?

10:55AM 14 A. Total of somewhere in between 13 and 15 years, best  
10:55AM 15 recall.

10:55AM 16 Q. What type of vehicles does Certified Auto Brokers sell?

10:56AM 17 A. That's the neat thing. We sell a little bit of  
10:56AM 18 everything from the college kid car to the BMW to the \$50,000  
10:56AM 19 pick-up truck and everything in between.

10:56AM 20 Q. Does Certified Auto Brokers sell new cars?

10:56AM 21 A. No, we do not.

10:56AM 22 Q. So it only sells used cars; is that fair to say?

10:56AM 23 A. That's correct.

10:56AM 24 Q. Is Certified Auto's inventory posted on its website?

10:56AM 25 A. It is. Yeah.

10:56AM 1 Q. And based on your 13 plus years of experience in the  
10:56AM 2 industry, when people come into a car dealership for the  
10:56AM 3 purpose of purchasing a car, what are some steps that they  
10:56AM 4 ordinarily take?

10:56AM 5 A. Everybody is a little bit different but at the end of the  
10:56AM 6 day, people are people, and they all act -- it depends on how  
10:56AM 7 they come in, the situation, you know? Usually when somebody  
10:57AM 8 comes in, regardless of whether it's truck buyer or somebody  
10:57AM 9 buying a more economy car, they come in. We learn about what  
10:57AM 10 they're looking to accomplish and help them determine the  
10:57AM 11 steps going from there, figure out what the process is going  
10:57AM 12 to be figure out what our end game is.

10:57AM 13 Q. Did they walk the lot and observe cars?

10:57AM 14 A. They have the opportunity to. We have an open lot and I  
10:57AM 15 would say a vast majority of our customers like to get a look  
10:57AM 16 around especially with our construction we got going on now.

10:57AM 17 Q. Do they look at particular cars in which they're  
10:57AM 18 interested?

10:57AM 19 MS. JAWORSKI: Objection. Are these questions  
10:57AM 20 related to Mr. McMurray or just --

10:57AM 21 THE COURT: So I'm going to sustain the objection on  
10:57AM 22 relevance. There isn't need to identify the typical car  
10:57AM 23 buyer. That would be well within the cannon of any common  
10:58AM 24 person how somebody buys a car, so let's move along to the  
10:58AM 25 questions that we're here --

10:58AM 1 MS. JAWORSKI: All right.

10:58AM 2 BY MS. JAWORSKI:

10:58AM 3 Q. I'd like to draw your attention to the evening of the

10:58AM 4 July 22nd, 2021 which is the subject matter of today's

10:58AM 5 hearing. Prior to that date, had you ever met an individual

10:58AM 6 by the name of Nathan McMurray?

10:58AM 7 A. No.

10:58AM 8 Q. And can you explain what occurred on July 22nd, 2021?

10:58AM 9 A. Yes. That evening, a gentleman walked through the front

10:58AM 10 door. We were just about to close up, but it's summertime

10:58AM 11 and days are long, so customer walks in at 7 o'clock, I'm

10:58AM 12 certainly going to help them out. And he came in, sat down,

10:58AM 13 mentioned that he was looking for a pick-up truck so he and

10:58AM 14 his brother could build out a project in Niagara County. We

10:58AM 15 discussed trucks a little bit and like you said, just the

10:59AM 16 start of the sales process.

10:59AM 17 Q. And at the time, did Certified Auto Brokers have trucks

10:59AM 18 in stock?

10:59AM 19 A. Yes. Oh yeah. We always have trucks.

10:59AM 20 Q. And did Nathan McMurray walk the lot to observe any of

10:59AM 21 the trucks?

10:59AM 22 A. He did not.

10:59AM 23 Q. Did you offer to have him walk the lot to observe the

10:59AM 24 trucks?

10:59AM 25 A. Yes. I offered to show him some trucks. So once we

10:59AM 1 started talking about it a little bit trying to figure out  
10:59AM 2 which way he was going for his pick-up truck.  
10:59AM 3 Q. Did Mr. McMurray ask to see any trucks?  
10:59AM 4 A. He did not.  
10:59AM 5 Q. Did he ask to test drive any trucks?  
10:59AM 6 A. He did not.  
10:59AM 7 Q. And did he, in fact, see or test drive any trucks?  
10:59AM 8 A. No.  
10:59AM 9 Q. And then what happened?  
10:59AM 10 A. So about five or so minutes into the conversation, he had  
10:59AM 11 asked if Chris Taylor was in and I didn't know where Chris  
10:59AM 12 was at that point, being the end of the day, and Chris  
11:00AM 13 happened to walk through the showroom and stopped in to greet  
11:00AM 14 Mr. McMurray as he would just about any customer. It's my  
11:00AM 15 office, frankly.  
11:00AM 16 Q. And then what happened?  
11:00AM 17 A. Then the conversation turned a little bit from talking  
11:00AM 18 about pick-up trucks and Mr. McMurray made a comment about  
11:00AM 19 asking if Chris uses ACV, if he was familiar with them. I  
11:00AM 20 kind of -- at that point, I like -- we were talking about  
11:00AM 21 business things that was kind of withdrawn from the  
11:00AM 22 conversation a little bit at that point, but Chris and  
11:00AM 23 Mr. McMurray were in my office talking about this subject  
11:00AM 24 matter.  
11:00AM 25 Q. And what did Mr. McMurray say about ACV Auctions?

11:00AM 1 A. He -- what I heard them mention was that he offered --  
11:01AM 2 made -- sounded like he made Chris an offer. I know he made  
11:01AM 3 Chris an offer and in his vague terms, he said, it could very  
11:01AM 4 well stand to help him.  
11:01AM 5 Q. And what was the offer that Mr. McMurray made to  
11:01AM 6 Mr. Taylor?  
11:01AM 7 A. I imagine it had to do with being involved with suing ACV  
11:01AM 8 but, again, you know, he wasn't specific. It was like, if  
11:01AM 9 you get on board with this, this could really help you and  
11:01AM 10 like, I didn't want to be -- frankly, I didn't want to be in  
11:01AM 11 the office for that. I looked at Chris and kind of give him  
11:01AM 12 a glare like I was feeling a little bit awkward and then the  
11:01AM 13 conversation kind of continued as Mr. McMurray asked Chris  
11:02AM 14 these questions.  
11:02AM 15 Q. Did Mr. McMurray say anything about a lawsuit?  
11:02AM 16 A. Yes.  
11:02AM 17 Q. And what was that about the lawsuit?  
11:02AM 18 A. All I remember was that he mentioned that there was  
11:02AM 19 something happening against ACV.  
11:02AM 20 Q. Did Mr. McMurray ask Mr. Taylor any questions?  
11:02AM 21 A. Specifically, I don't recall.  
11:02AM 22 Q. How long would you approximate that the conversation  
11:02AM 23 between Mr. McMurray and Mr. Taylor lasted for?  
11:02AM 24 A. I would say somewhere between 5 and 15 minutes if I'm  
11:02AM 25 recalling right.

11:02AM 1 Q. And you testified that Mr. McMurray implied that the  
11:02AM 2 lawsuit could help Certified Auto Brokers out or help  
11:02AM 3 Mr. Taylor out?

11:03AM 4 A. Right.

11:03AM 5 MR. YANKELUNAS: Attorney/client -- objection, Judge.

11:03AM 6 THE COURT: Objection sustained.

11:03AM 7 BY MS. JAWORSKI:

11:03AM 8 Q. Is it your testimony today that you heard Mr. McMurray  
11:03AM 9 state that the lawsuit could help Mr. Taylor out?

11:03AM 10 MR. YANKELUNAS: Objection. Asked and answered.

11:03AM 11 THE COURT: Well it's not asked and answered. That  
11:03AM 12 wasn't the testimony. So -- at least I'm taking notes  
11:03AM 13 verbatim. It's harder for me to do that when you're asking  
11:03AM 14 questions. Why don't you just ask him what, if anything, he  
11:03AM 15 recalls about that subject matter.

11:03AM 16 BY MS. JAWORSKI:

11:03AM 17 Q. What, if anything, do you recall Mr. McMurray saying  
11:03AM 18 about the lawsuit?

11:03AM 19 A. Like I said, that he -- there was something that if Chris  
11:03AM 20 was to get involved with, that he stood to gain; like, it  
11:03AM 21 would be very good for him. Like, you could tell there was  
11:03AM 22 an offer being made.

11:03AM 23 Q. And did Mr. McMurray offer any insight into how Chris  
11:04AM 24 could get involved in the lawsuit?

11:04AM 25 A. No, not that I recall.

11:04AM 1 Q. And what was your impression of Mr. McMurray's offer?

11:04AM 2 A. That it's --

11:04AM 3 MR. YANKELUNAS: Objection, Your Honor. Impression.

11:04AM 4 THE COURT: I'll allow it because it's this  
11:04AM 5 witness's. I'm not so sure the relevance, but go ahead.

11:04AM 6 THE WITNESS: My impression was what I was hearing  
11:04AM 7 seemed unethical. And it went from, you know, coming into  
11:04AM 8 look at a pick-up truck to taking this right turn onto a  
11:04AM 9 subject that has nothing to do with purchasing a pick-up  
11:04AM 10 truck.

11:04AM 11 BY MS. JAWORSKI:

11:04AM 12 Q. Did Mr. McMurray make any other statements about car  
11:04AM 13 dealerships?

11:04AM 14 A. That I can recall, he might have. I think he mentioned a  
11:05AM 15 few. I don't remember specifically which ones.

11:05AM 16 Q. How did the conversation with Mr. McMurray and Mr. Taylor  
11:05AM 17 end, if you recall?

11:05AM 18 A. Cordially, you know? Chris is a professional he shook  
11:05AM 19 hands and they parted ways and -- oh. Go ahead.

11:05AM 20 Q. Do you recall Mr. McMurray mentioned his law firm  
11:05AM 21 HoganWillig?

11:05AM 22 A. I don't recall.

11:05AM 23 Q. And how did you feel witnessing this conversation?

11:05AM 24 MR. YANKELUNAS: Objection, Judge.

11:05AM 25 THE COURT: Sustained.



11:05AM 1 BY MS. JAWORSKI:

11:05AM 2 Q. How did this conversation make you feel?

11:05AM 3 A. Uncomfortable.

11:05AM 4 MR. YANKELUNAS: Same objection, Judge.

11:05AM 5 THE COURT: Sustained. So remember this isn't an  
11:05AM 6 intention infliction of emotional distress. How he felt about  
11:05AM 7 it, he already asked and answered that. Let move to the next  
11:05AM 8 question.

11:05AM 9 BY MS. JAWORSKI:

11:05AM 10 Q. At the end of that discussion, did the conversation turn  
11:06AM 11 back to a discussion of trucks?

11:06AM 12 A. I tried to turn the discussion back to a pick-up truck  
11:06AM 13 and I had to hastily write down Mr. McMurray's contact info  
11:06AM 14 because, like I said, it seemed a lot less like it was about  
11:06AM 15 the pick-up truck at that point than his -- again, it was  
11:06AM 16 less about the truck at that point.

11:06AM 17 Q. And after the conversation concluded, did Mr. McMurray  
11:06AM 18 look at any of the trucks?

11:06AM 19 A. He did not.

11:06AM 20 Q. Did he, at that time, walk the lot?

11:06AM 21 A. No. I followed up with him quite a bit and didn't get  
11:06AM 22 any contact back.

11:06AM 23 Q. Can you explain some of the follow up that you had with  
11:06AM 24 Mr. McMurray?

11:06AM 25 A. Phone calls, text messages, emails.

11:06AM 1 Q. And did Mr. McMurray return any of your calls?

11:06AM 2 A. No.

11:06AM 3 Q. And based on your interaction with him on the night of  
11:07AM 4 July 22nd, why do you think that attorney McMurray came into  
11:07AM 5 Certified Auto Brokers?

11:07AM 6 MR. YANKELUNAS: Objection, Judge.

11:07AM 7 THE COURT: I think it's been asked and answered.  
11:07AM 8 I'll allow him to answer it because he has answered it to the '  
11:07AM 9 Courts satisfaction.

11:07AM 10 THE WITNESS: So my impression was that the looking  
11:07AM 11 at a truck was not the primary purpose. The primary purpose  
11:07AM 12 was getting some facetime with Chris and asking him about, you  
11:07AM 13 know, what we're talking about today.

11:07AM 14 BY MS. JAWORSKI:

11:07AM 15 Q. And at the time of McMurray's visit on July 22nd, 2021,  
11:07AM 16 did Certified Auto Brokers have used Dodge Rams for sale, if  
11:07AM 17 you recall?

11:07AM 18 A. Yeah. We always have a good mix of all kinds of pick-up  
11:08AM 19 trucks.

11:08AM 20 Q. So, if McMurray was interested in purchasing --

11:08AM 21 A. He mentioned he wasn't really brand specific --

11:08AM 22 Q. Oh I'm sorry. Did I speak over you?

11:08AM 23 A. He mentioned that he wasn't really brand specific in the  
11:08AM 24 beginning and that he was looking for more like a work truck.  
11:08AM 25 So I wasn't thinking something in like a late model.

11:08AM 1 Q. And if Mr. McMurray had a brand and mileage in mind that  
11:08AM 2 Certified Auto Brokers did not have in stock, could you  
11:08AM 3 obtain it for him some way?  
11:08AM 4 A. Oh yeah. Absolutely. We do that all the time.  
11:08AM 5 Q. And again, Certified Auto Brokers only sells used cars,  
11:08AM 6 correct?  
11:08AM 7 A. Everything that we sell is preowned, but we had a 2021  
11:08AM 8 recently with 497 miles on it. So we're not like a dirt lot.  
11:08AM 9 Q. Are you being compensated for your time here today,  
11:08AM 10 Mr. Renzoni?  
11:08AM 11 A. No. I'm actually losing money because I'm off the floor.  
11:08AM 12 Pardon my candor.  
11:08AM 13 Q. Has ACV made any promises to you in exchange for your  
11:09AM 14 testimony today?  
11:09AM 15 A. No.  
11:09AM 16 Q. Has anyone made any promises to you in exchange for your  
11:09AM 17 testimony?  
11:09AM 18 A. No.  
11:09AM 19 Q. You have counsel representing you today, correct?  
11:09AM 20 A. Yes.  
11:09AM 21 Q. And you're here pursuant to a court-ordered subpoena  
11:09AM 22 issued by HoganWillig, correct?  
11:09AM 23 A. Correct.  
11:09AM 24 MS. JAWORSKI: No further questions.  
11:09AM 25 THE COURT: Any cross-examination?

11:09AM 1 MR. YANKELUNAS: Yes, Your Honor.

11:09AM 2

11:09AM 3 CROSS-EXAMINATION

11:09AM 4

11:09AM 5 BY MR. YANKELUNAS:

11:09AM 6 Q. Can you identify this exhibit?

11:09AM 7 A. Yes. It looks like one of my business cards.

11:09AM 8 Q. Mr. Renzoni, can you identify that?

11:09AM 9 A. Yes. It's one of my business cards.

11:09AM 10 Q. Okay. Did you give your business card to Mr. McMurray  
11 during your meeting?

11:09AM 12 A. I can't recall.

11:09AM 13 Q. Well that's your business card, correct?

11:10AM 14 A. It is.

11:10AM 15 Q. Okay. Do you recognize the handwriting, the phone number  
16 and the name?

11:10AM 17 A. I recognize the name on it. The handwriting, I can't. I  
18 don't know whose it is.

11:10AM 19 Q. Do you recall seeing Mr. Taylor write his name and phone  
20 number on this card?

11:10AM 21 A. I don't recall.

11:10AM 22 Q. Okay. But you do recall giving this card to Mr.  
23 McMurray? It's your card.

11:10AM 24 A. I give every one of my customers a card.

11:10AM 25 Q. Do you give them a card when they come in looking for a

11:10AM 1 truck or a vehicle?

11:10AM 2 A. Of course.

11:10AM 3 Q. And the reference to the back lot, do you know what that

11:10AM 4 means?

11:10AM 5 A. As a reference to what?

11:10AM 6 Q. Back lot, you see that toward the left-hand side of the

11:10AM 7 exhibit?

11:10AM 8 A. Oh okay. Yes. That could refer to our holding lot, I

11:10AM 9 would imagine. It's just a --

11:11AM 10 Q. Okay. That's fine. Do you also recall discussing a back

11:11AM 11 lot wholesaler with Mr. McMurray?

11:11AM 12 A. No.

11:11AM 13 Q. You don't know if you did or you didn't?

11:11AM 14 A. No. I don't recall having a conversation about that.

11:11AM 15 Q. Now, the conversation between Mr. McMurray and

11:11AM 16 Mr. Taylor, you were there for the duration of it, the entire

11:11AM 17 conversation?

11:11AM 18 A. That's correct.

11:11AM 19 Q. Okay. Do you recall Mr. Taylor writing his name on this

11:11AM 20 card at the conclusion of the conversation?

11:11AM 21 A. I don't recall.

11:11AM 22 Q. Do you have any question, doubt, that he did that?

11:11AM 23 A. I wouldn't know.

11:11AM 24 Q. All right. Did they discuss talking in the future at

11:11AM 25 some point, Mr. McMurray and Mr. Taylor?

11:11AM 1 A. If they did, I can't recall. It would have been more  
11:11AM 2 about buying a truck based on, you know, where we left off.  
11:11AM 3 I think it was more like Chris saying yeah, Tim will help you  
11:12AM 4 any way he can.  
11:12AM 5 Q. I believe you indicated if your direct that you don't  
11:12AM 6 have any specific recollection of what was discussed between  
11:12AM 7 Mr. McMurray and Mr. Taylor; is that fair?  
11:12AM 8 A. That's fair.  
11:12AM 9 Q. So you can't recall whether or not Mr. McMurray asked to  
11:12AM 10 represent Mr. Taylor; is that right?  
11:12AM 11 A. I don't recall.  
11:12AM 12 Q. All right. Let's play Exhibit 5.  
11:12AM 13 MR. YANKELUNAS: Judge, we're now going to play a  
11:12AM 14 video or a phone message. Just take us a second to get it set  
11:12AM 15 up.  
11:12AM 16 THE COURT: And this is Exhibit 5?  
11:12AM 17 MR. YANKELUNAS: Exhibit 5.  
11:12AM 18 THE COURT: Exhibit 5 is admitted.  
11:12AM 19 (Exhibit 5 was received in evidence.)  
11:12AM 20  
11:12AM 21 (The recording was played.)  
11:13AM 22 MR. YANKELUNAS: Judge should we play that again?  
11:13AM 23 The volume didn't sound great.  
11:13AM 24 THE COURT: Let's try it again.  
11:13AM 25 MR. YANKELUNAS: Let's try it again.

11:13AM 1 (The recording was played.)

11:13AM 2 MR. YANKELUNAS: Is that better, Judge?

11:13AM 3 THE COURT: Yes.

11:13AM 4 MS. JAWORSKI: Okay.

11:13AM 5 BY MR. YANKELUNAS:

11:13AM 6 Q. Mr. Renzoni, was that your voice on that recording?

11:14AM 7 MR. RADEL: Your Honor, we could not hear at this

11:14AM 8 end anything on the recording. We've tried to turn up our

11:14AM 9 volume at this end. If we could replay it one more time,

11:14AM 10 were tried to get -- we've got our volume at 100 percent now.

11:14AM 11 THE COURT: So we'll try it one more time. What I

11:14AM 12 heard didn't have much in the way of the substance about it,

11:14AM 13 so let's try it one more time.

11:14AM 14 MR. RADEL: Thank you, Your Honor.

11:15AM 15 MR. JOHNSEN: Trying to turn up the volume here,

11:15AM 16 everyone. I apologize.

11:15AM 17 (The recording was played.)

11:15AM 18 MR. YANKELUNAS: Was that any better I hope?

11:15AM 19 MR. RADEL: We were able to hear something. I'll let

11:16AM 20 the witness describe what it is that he heard.

11:16AM 21 BY MR. YANKELUNAS:

11:16AM 22 Q. Mr. Renzoni, did you -- I'm sorry about the volume. I

11:16AM 23 tried. Was that your voice?

11:16AM 24 A. It sounded like me leaving a follow-up call.

11:16AM 25 Q. Okay. A follow-up call with Mr. McMurray?

11:16AM 1 A. Right.

11:16AM 2 Q. Did you make more than one follow-up call with

11:16AM 3 Mr. McMurray?

11:16AM 4 A. I believe I did.

11:16AM 5 Q. Did you send some texts to Mr. McMurray?

11:16AM 6 A. Yes.

11:16AM 7 Q. Because is it correct, sir, that you did that because you

11:16AM 8 understood Mr. McMurray to be in your firm -- in your

11:16AM 9 dealership looking for a pick-up truck?

11:16AM 10 A. Yeah. I followed the steps that I would with any

11:16AM 11 customer.

11:16AM 12 Q. You wouldn't have done it if you didn't think they was

11:16AM 13 there to buy a pick-up truck, would you?

11:16AM 14 A. No. If somebody came in for some air in their tires, I

11:16AM 15 would put some air in their tires.

11:16AM 16 Q. Or if he came for some other purpose other than to buy a

11:16AM 17 truck you would not have done that if that's what you

11:16AM 18 believed, correct?

11:16AM 19 A. I think sometimes people can come in for more than one

11:16AM 20 reason.

11:16AM 21 Q. But you made quite an effort to follow up, right; several

11:17AM 22 attempts?

11:17AM 23 A. Yes.

11:17AM 24 Q. Okay.

11:17AM 25 MR. YANKELUNAS: Nothing further for this witness,



11:17AM 1 Judge.

11:17AM 2 THE COURT: Any redirect?

11:17AM 3 MS. JAWORSKI: Yes, Your Honor.

11:17AM 4

11:17AM 5 REDIRECT EXAMINATION

11:17AM 6

11:17AM 7 BY MS. JAWORSKI:

11:17AM 8 Q. Mr. Renzoni, do you recall formalizing an affidavit for  
11:17AM 9 this case?

11:17AM 10 A. I do. Yeah.

11:17AM 11 Q. I'm going to share my screen to show you that affidavit.

11:17AM 12 And can you tell me the date that your affidavit was

11:17AM 13 executed?

11:17AM 14 A. The 9th of September.

11:17AM 15 Q. And you'd agree that that is some six weeks after the

11:17AM 16 July 22nd visit by Mr. McMurray into Certified Auto Brokers,  
11:17AM 17 correct?

11:17AM 18 A. Sounds right.

11:17AM 19 Q. At the time that you submitted this affidavit, do you  
11:17AM 20 have the opportunity to review it for accuracy?

11:17AM 21 A. I did.

11:17AM 22 Q. And review it for truthfulness?

11:17AM 23 A. Yes.

11:17AM 24 Q. And would you agree that generally the events of that  
11:18AM 25 evening may have been more fresh in your mind at the time

11:18AM 1 that you filed out this affidavit?

11:18AM 2 MR. YANKELUNAS: Objection.

11:18AM 3 THE COURT: Basis?

11:18AM 4 MR. YANKELUNAS: Objection.

11:18AM 5 THE COURT: Basis for your objection?

11:18AM 6 MR. YANKELUNAS: Judge, it's to relevance also and

11:18AM 7 what was subjectively -- what was in this person's mind to

11:18AM 8 what he recollected is not accurate -- or not relevant.

11:18AM 9 Relevance, Judge.

11:18AM 10 THE COURT: Well it's outside the scope of cross and

11:18AM 11 I'm going to sustain the objection on that ground. It could

11:18AM 12 have been asked in direct in the first place. You didn't

11:18AM 13 address the affidavit. It doesn't seem to be a prior

11:18AM 14 consistent statement. It seems to be something else.

11:18AM 15 BY MS. JAWORSKI:

11:18AM 16 Q. Do you agree that you submitted an affidavit six weeks

11:18AM 17 after Mr. McMurray's visit?

11:18AM 18 MR. YANKELUNAS: Objection, Judge.

11:18AM 19 THE COURT: Sustained.

11:18AM 20 BY MS. JAWORSKI:

11:18AM 21 Q. Mr. Renzoni, did you submit an affidavit in this case?

11:19AM 22 A. Yes.

11:19AM 23 MR. YANKELUNAS: Objection. Objection.

11:19AM 24 THE COURT: So you -- the cross-examination didn't

11:19AM 25 have anything to do with the affidavit. These are all

11:19AM 1 questions you could have asked on direct. If you are trying  
11:19AM 2 to rehabilitate the witness, you may point to a portion of the  
11:19AM 3 affidavit that you want to focus on, but asking the questions  
11:19AM 4 now when it wasn't covered in cross isn't proper.

11:19AM 5 MS. JAWORSKI: All right.

11:19AM 6 BY MS. JAWORSKI:

11:19AM 7 Q. I'm going to share my screen and ask you some questions  
11:19AM 8 about specific statements in your affidavit, Mr. Renzoni.  
11:19AM 9 Let me know if you can see my screen.

11:19AM 10 A. Yes. I can see it.

11:19AM 11 Q. I am directing your attention to paragraphs 13 through  
11:19AM 12 17.

11:19AM 13 A. Yes.

11:19AM 14 Q. Did you have an opportunity to review those statements?

11:19AM 15 A. Yes. I have reviewed them.

11:20AM 16 Q. And to turn back to the conversation that you had with  
11:20AM 17 Mister -- that you observed between Mr. McMurray and

11:20AM 18 Mr. Taylor, does this refresh your recollection at all as to  
11:20AM 19 the specifics of that conversation?

11:20AM 20 A. It does quite a bit.

11:20AM 21 Q. And would you agree that the affidavit is accurate?

11:20AM 22 A. Yes.

11:20AM 23 Q. And truthful?

11:20AM 24 A. Yes.

11:20AM 25 MR. YANKELUNAS: Objection, Judge.

11:20AM 1 MS. JAWORSKI: No further questions.

11:20AM 2 THE COURT: Basis for objection?

11:20AM 3 MS. JAWORSKI: If she's going to ask the witness if

11:20AM 4 the affidavit refreshes your recollection, I believe she

11:20AM 5 should identify what she's -- the witness is not remembering

11:20AM 6 from the testimony.

11:20AM 7 THE COURT: So you asked the witness about the

11:20AM 8 specifics of the conversation and he repeatedly said, I didn't

11:20AM 9 recall. I didn't recall. So it's proper refreshing of

11:21AM 10 recollection.

11:21AM 11 MS. JAWORSKI: No further questions.

11:21AM 12 THE COURT: Any recross?

11:21AM 13 MR. YANKELUNAS: No thanks, Judge.

11:21AM 14 THE COURT: All right. You may excuse the witness

11:21AM 15 and any further witnesses for the defendant?

11:21AM 16 MS. JAWORSKI: No, Your Honor.

11:21AM 17 THE COURT: Any witnesses for the plaintiffs?

11:21AM 18 MR. YANKELUNAS: Yes. We're going to call

11:21AM 19 Mr. McMurray, Judge.

11:21AM 20 MR. RADEL: Your Honor, Robert Radel on behalf of the

11:21AM 21 two witnesses. Are we now complete? May I dismiss this

11:21AM 22 second witness and drop from this Zoom meeting?

11:21AM 23 THE COURT: We are and you may. Thank you.

11:21AM 24 MR. RADEL: Thank you, Your Honor.

11:21AM 25 (The witness was excused at 11:21 a.m.)

11:21AM 1 MR. DIRENFELD: Your Honor, this is John Direnfeld on  
11:21AM 2 behalf of ACV. I just want to let the Court know I'll be  
11:21AM 3 handling Mr. McMurray and handling any objections as well,  
11:21AM 4 just so you know in terms of who is speaking.

11:21AM 5 THE COURT: All right. Thank you.

11:21AM 6 MR. JOHNSEN: Your Honor, just for purposes of  
11:21AM 7 feedback, Mr. McMurray will have his own camera, but we're  
11:21AM 8 just going to use one microphone on Mr. Yankelunas's computer  
11:22AM 9 so we don't have all that feedback and reverb. So if there's  
11:22AM 10 an issue, please let me know.

11:22AM 11 THE COURT: All right. Thank you. Plaintiffs may  
11:22AM 12 call the witness and we'll have the witness sworn in.

11:22AM 13 MR. YANKELUNAS: Thank you Judge. Nate McMurray for  
11:22AM 14 the plaintiff. Hopefully you can see him. There he is. I  
11:22AM 15 believe we have called him.

11:22AM 16 THE COURT: You have called him. You are all under  
11:22AM 17 different peoples's name, so I think this is coming up under  
11:23AM 18 Mr. Johnsen. You are Mr. McMurray.

11:23AM 19 (The witness was sworn at 11:23 a.m.)

11:23AM 20 THE CLERK: Please state your name and spell your  
11:23AM 21 last name for the record.

11:23AM 22 THE WITNESS: My name is Nathan McMurray, last name  
11:23AM 23 M-C-M-U-R-R-A-Y.

11:23AM 24

11:23AM 25

11:23AM	1	DIRECT EXAMINATION
11:23AM	2	
11:23AM	3	BY MR. YANKELUNAS:
11:23AM	4	Q. Mr. McMurray, are you an attorney?
11:23AM	5	A. Yes I am.
11:24AM	6	Q. Admitted in what state?
11:24AM	7	A. New York State.
11:24AM	8	Q. What year were you admitted?
11:24AM	9	A. 2008.
11:24AM	10	Q. Tell us a little bit your educational background.
11:24AM	11	A. I graduated public schools locally. Went to the
11:24AM	12	University of Buffalo undergraduate. I was a full bright
11:24AM	13	scholar in South Korea. Went to lawsuit at the University of
11:24AM	14	California, Hastings College of the Law. I received a
11:24AM	15	scholarship to study at Tsinghua University in Beijing. I
11:24AM	16	practiced overseas for a long time, came back around
11:24AM	17	eight years ago and work in Western New York at that time.
11:24AM	18	Q. Did you run for Congress, Mr. McMurray?
11:24AM	19	A. I did.
11:24AM	20	Q. What year was that?
11:24AM	21	A. I ran twice; first in 2018 and I ran 2019.
11:24AM	22	Q. Did you have any endorsements that you were proud of?
11:25AM	23	A. I was endorsed by the President of the United States,
11:25AM	24	every major local union and national union; not every, but
11:25AM	25	most, many non-profit organizations, almost too numerous to

11:25AM 1 list.

11:25AM 2 Q. And you were -- did you hold a position of authority in

11:25AM 3 the Town of Grand Island at any point?

11:25AM 4 A. Yes. I am proud to have served as the Grand Island Town

11:25AM 5 Supervisor.

11:25AM 6 Q. What years?

11:25AM 7 A. I was elected in 2015. I served for four years.

11:25AM 8 Q. At what point, you worked at HoganWillig law firm?

11:25AM 9 A. I did.

11:25AM 10 Q. Okay. And where are you now?

11:25AM 11 A. I work for Advocates For Justice chartered attorneys.

11:25AM 12 It's a civil rights firm.

11:25AM 13 Q. Now do you know Christopher Taylor?

11:25AM 14 A. I do.

11:25AM 15 Q. How do you know him?

11:25AM 16 A. When I become town supervisor, he was a businessperson on

11:25AM 17 the island. I try to support local business as much as

11:26AM 18 possible. He reached out to me. He was also involved in an

11:26AM 19 organization that I was working with to develop a memorial

11:26AM 20 for a Medal of Honor winner that was from Grand Island. We

11:26AM 21 had some disputes regarding various different issues. He was

11:26AM 22 very active in the town. He appeared, at least a few times,

11:26AM 23 before me at the town hall advocating for various positions,

11:26AM 24 so yes. I know him.

11:26AM 25 Q. Now at some point, did he ask you to assist him with his

11:26AM 1 business opportunities?

11:26AM 2 A. He did. Yes he did.

11:26AM 3 Q. And you appeared at a ribbon cutting ceremony?

11:26AM 4 A. I did. I was proud to be there. It was fun. He did the  
11:26AM 5 ribbon cutting for his new wing of his facility.

11:26AM 6 Q. How did you get there?

11:26AM 7 A. He invited me.

11:26AM 8 Q. Okay. Were there other events that he participated in,  
11:26AM 9 political events?

11:27AM 10 A. I saw him all the time.

11:27AM 11 Q. Now, eventually, you had a falling out. Would that be a  
11:27AM 12 fair characterization?

11:27AM 13 MR. DIRENFELD: Object -- Your Honor, I'm just going  
11:27AM 14 to object that there's a lot of leading going on here, so I'll  
11:27AM 15 object to leading now that we're getting to substance.

11:27AM 16 THE COURT: Sustained.

11:27AM 17 BY MR. YANKELUNAS:

11:27AM 18 Q. Did you have a falling out?

11:27AM 19 A. I mean, we -- I think on national issues were very  
11:27AM 20 different and I think, you know, I said in my affidavit he  
11:27AM 21 was supporting the -- I was support the West River Trail  
11:27AM 22 which was very controversial in Grand Island. I received a  
11:27AM 23 lot of pushback. He lives on West River. At one moment, we  
11:27AM 24 did have a confrontation about it. He was very upset. I  
11:27AM 25 know he was working with several of the council members that



11:27AM 1 were also against the trail, so yes. We stopped talking.

11:27AM 2 Q. Let me direct your attention to July 22nd, 2021. Did you

11:28AM 3 visit this -- I'll call it CAB. Did you visit the CAB

11:28AM 4 business facilities on that date?

11:28AM 5 A. Yes. I pass it every day literally. It's right by my

11:28AM 6 home and I dropped in to look at cars.

11:28AM 7 Q. Okay. Were you looking for cars during this time period?

11:28AM 8 A. Yes. I was going to self dealership looking for a truck

11:28AM 9 and I actually bought a truck right around that time.

11:28AM 10 Q. Okay. Can you give me an estimate as to how many

11:28AM 11 dealerships you visited while you were looking for a truck?

11:28AM 12 A. I can only estimate. I would guess four.

11:28AM 13 Q. Okay. That's fair. Now when you first got to these --

11:28AM 14 dealership on July 22nd, who did you speak with?

11:28AM 15 A. I may be saying his name wrong, Renzoni, I think. I

11:28AM 16 can't remember his first name. I'm sorry.

11:28AM 17 Q. And how long did you speak to Mr. Renzoni?

11:28AM 18 A. Maybe 5, 10 minutes.

11:28AM 19 Q. And what were you talking about?

11:29AM 20 A. Cars. And he was -- I told him exactly what I wanted. I

11:29AM 21 don't have a lot of time. My schedule is busy. And I said,

11:29AM 22 this is what I want and this is the price I got from other

11:29AM 23 places and he told me he couldn't give me those prices and it

11:29AM 24 was a short conversation.

11:29AM 25 Q. At some point, did Mr. Taylor become a participant in

11:29AM 1 that conversation?

11:29AM 2 A. He came out.

11:29AM 3 Q. Just answer the question.

11:29AM 4 A. Yes.

11:29AM 5 Q. Okay. And how did that happen?

11:29AM 6 A. He came out and we saw each other and it was fun because

11:29AM 7 it was -- I was excited. The reason why I went in there was

11:29AM 8 because I remember Chris. I didn't have any hard feelings

11:29AM 9 and I hoped maybe it would, in some small way, would help the

11:29AM 10 island and help Chris if I were to get a truck from him and

11:29AM 11 work it out. He was excited to see me and I was excited to

11:29AM 12 see him.

11:29AM 13 Q. Okay. How long would you say you spoke to Mr. Taylor?

11:29AM 14 A. It was a short conversation, maybe 10 minutes.

11:30AM 15 Q. Okay. Did the ACV lawsuit come up?

11:30AM 16 A. Yes.

11:30AM 17 Q. How?

11:30AM 18 A. He said, remember when you were here for the first wing

11:30AM 19 and I said yes. And he said, we're putting in a new wing.

11:30AM 20 What have you been up to? And I said, I'm working at this

11:30AM 21 law firm and I'm working on a case. And I said, listen, do

11:30AM 22 you know about ACV because at that time, I was consumed with

11:30AM 23 the case and learning about it and understanding the

11:30AM 24 industry.

11:30AM 25 Q. And what did he say?

11:30AM 1 A. Yes. He said he knew about it and he had started to talk  
11:30AM 2 about it with me and tell me his concerns with ACV and it  
11:30AM 3 seemed like we had some, I don't know, like we had like,  
11:30AM 4 common ground.

11:30AM 5 Q. Where were his concerns?

11:30AM 6 A. He said that he started with Joe Nieman and his  
11:30AM 7 reputation for aggressive tactics an lavish sales tactics and  
11:31AM 8 I said, you know, I said, I heard the same thing. It was a  
11:31AM 9 high level conversation regarding what I had heard and what  
11:31AM 10 he had heard.

11:31AM 11 Q. Did a reference to shill bidding come up?

11:31AM 12 A. Yes.

11:31AM 13 Q. Did he know what that was?

11:31AM 14 A. Yes.

11:31AM 15 Q. And what did he say?

11:31AM 16 A. He said he knew about it. He said he heard about it. He  
11:31AM 17 said there were rumors in the industry and people talk and we  
11:31AM 18 started to talk and I was animated because I was very  
11:31AM 19 interested in what was -- I mean, obviously, I was committed  
11:31AM 20 to the case and to the facts I heard about the case.

11:31AM 21 Q. When you say heard about it, in reference to ACV?

11:31AM 22 A. He told me he knew Joe well and knew all about the  
11:31AM 23 company.

11:31AM 24 Q. What about shill bidding?

11:31AM 25 A. He says he heard about it, but he knew more about lavish

11:31AM 1 gifts and other activities and he acted like he was sort of  
11:31AM 2 an -- inside knowledge of ACV because obviously I would have  
11:32AM 3 been interested in it.

11:32AM 4 Q. Okay. Did you discuss meeting again?

11:32AM 5 A. Yes. He wanted to meet as well. He gave me his card.  
11:32AM 6 He put his number on the card and he said contact me. Let's  
11:32AM 7 talk.

11:32AM 8 MR. YANKELUNAS: Okay. Let's put Exhibit 1 up.

11:32AM 9 MR. JOHNSEN: Your Honor, if permissible by you,  
11:32AM 10 could I give Mr. McMurray the same piece of paper that's on  
11:32AM 11 the screen? This is Ryan Johnsen. I apologize.

11:32AM 12 THE COURT: Yes. You may do that.

11:32AM 13 BY MR. YANKELUNAS:

11:32AM 14 Q. Now Mr. McMurray, can you identify Exhibit 1 please?

11:32AM 15 A. Yes. That's the card that he gave me.

11:33AM 16 Q. Now who is the -- what's the pointed name on the card?

11:33AM 17 A. Chris Taylor.

11:33AM 18 Q. Printed name on the card?

11:33AM 19 A. Oh, Tim Renzoni.

11:33AM 20 Q. Okay. Is Tim Renzoni the person who gave you the card?

11:33AM 21 A. He gave me the card and then --

11:33AM 22 Q. Okay. We'll get to that.

11:33AM 23 THE REPORTER: I'm sorry Mr. McMurray. Who gave you  
11:33AM 24 the card?

11:33AM 25 THE WITNESS: Tim Renzoni.

11:33AM 1 BY MR. YANKELUNAS:

11:33AM 2 Q. Okay. When?

11:33AM 3 A. While we were -- this was a conversation in the hallway

11:33AM 4 of Certified Auto. It's like we weren't in some office or

11:33AM 5 something. I was in Renzoni's office, he gave me the card,

11:33AM 6 then Chris came out and talked to all of us in the hallway.

11:33AM 7 Q. Okay. Now do you see the handwriting, Chris Taylor, and

11:33AM 8 a phone number?

11:33AM 9 A. Yes.

11:33AM 10 Q. Okay. Done how that got there?

11:33AM 11 A. Chris wrote it on there.

11:33AM 12 Q. Did you see him write on on there?

11:33AM 13 A. Yes.

11:33AM 14 Q. Was he saying something to you while he was going that or

11:33AM 15 how did this come about?

11:33AM 16 A. He said contact me. Yeah. Call. Let's talk.

11:33AM 17 Q. There's a reference to back lot. Do you see that on the

11:34AM 18 left-hand side of the exhibit?

11:34AM 19 A. Yes.

11:34AM 20 Q. Whose handwriting is that, do you know?

11:34AM 21 A. That's my handwriting.

11:34AM 22 Q. What does that refer to?

11:34AM 23 A. That refers to the competitor of ACV, back lot.

11:34AM 24 Q. How did you know to write that down?

11:34AM 25 A. He told me back lot may have some problems with ACV. I

11:34AM 1 made a note of it on the card.

11:34AM 2 Q. Who is he?

11:34AM 3 A. Christopher Taylor.

11:34AM 4 Q. Thank you. Now did you discuss meeting again when you

11:34AM 5 were -- had this conversation with Mr. Taylor?

11:34AM 6 A. Yes, but I told -- I'm sorry.

11:34AM 7 Q. That's fine.

11:34AM 8 A. I'm a little belabored by breath because of the -- sorry.

11:34AM 9 Q. Are you okay?

11:34AM 10 A. I'm fine. I don't hurt. I just seemed belabored.

11:34AM 11 Q. That's fine.

11:34AM 12 A. So the -- yes. I said, call me. And he -- I said -- or

11:34AM 13 he told me to call him and I did not call him.

11:35AM 14 Q. All right.

11:35AM 15 A. I did not give him a card or anything. I gave

11:35AM 16 Mr. Renzoni my contact information.

11:35AM 17 Q. Did you ever discuss attorney's fees with Mr. Taylor?

11:35AM 18 A. Never.

11:35AM 19 Q. Discuss retainer agreements?

11:35AM 20 A. Never.

11:35AM 21 Q. Did you ask him to sign a retainer agreement?

11:35AM 22 A. Never.

11:35AM 23 THE COURT: Mr. Yankelunas, can we take down the card

11:35AM 24 now so I can see?

11:35AM 25 MR. YANKELUNAS: Yes. Sorry. Can we go to

11:35AM 1 Exhibit 2? That's it. Can you give Mr. McMurray a hard copy?

11:35AM 2 BY MR. YANKELUNAS:

11:35AM 3 Q. Can you identify this exhibit?

11:35AM 4 A. Yes, the email confirming my purchase of my car that's

11:35AM 5 parked outside.

11:35AM 6 MR. YANKELUNAS: Okay. We're offering this exhibit,

11:35AM 7 Judge.

11:35AM 8 THE COURT: Any objection?

11:36AM 9 MR. DIRENFELD: No objection, Your Honor.

11:36AM 10 THE COURT: Plaintiff's 2 is admitted.

11:36AM 11 (Plaintiff's Exhibit 2 was received in evidence.)

11:36AM 12

11:36AM 13 BY MR. YANKELUNAS:

11:36AM 14 Q. Is that referring to the purchase of a vehicle at the

11:36AM 15 same time period of July --

11:36AM 16 A. I bought a 2021 Ram.

11:36AM 17 Q. Is there a date on this exhibit?

11:36AM 18 A. It's the 23rd, I think, right?

11:36AM 19 Q. Read the exhibit. It's right there.

11:36AM 20 A. Friday, July 23rd, yeah.

11:36AM 21 Q. Okay. So, in other words, you bought a car the next day,

11:36AM 22 correct?

11:36AM 23 A. Yes.

11:36AM 24 Q. Why didn't you buy a car or pick-up at CAB?

11:36AM 25 A. I don't want to disparage the guy, but his sales tactics

11:36AM 1 were hard and heavy. And I didn't like the pricing he was  
11:36AM 2 giving me. I mean, we -- to be totally honest, I went into  
11:36AM 3 Certified because I live right there. Again, I thought, what  
11:36AM 4 the heck, let's see what Christ can offer and I was already  
11:36AM 5 kind of set on what I was going to do.

11:36AM 6 Q. Why did you visit a used car dealership if you were  
11:36AM 7 looking for a new car?

11:36AM 8 A. Because I know Chris and I pass this location every  
11:37AM 9 single day. I'll pass it when I leave here. I pass it every  
11:37AM 10 single day. And they have cars parked up and down the  
11:37AM 11 street, truck. So I thought what's the harm in going to talk  
11:37AM 12 with them?

11:37AM 13 MR. YANKELUNAS: Let's try Exhibit 5 again.

11:37AM 14 MR. JOHNSON: This is Ryan JOHNSON. Mr. Yankelunas  
11:37AM 15 would like me to play Plaintiff's 5 which has already been  
11:37AM 16 marked and introduced into evidence.

11:37AM 17 (The recording was played.)

11:38AM 18 BY MR. YANKELUNAS:

11:38AM 19 Q. Was everybody able to hear that? Mr. McMurray, you  
11:38AM 20 recognize the voice on that tape?

11:38AM 21 A. I do not.

11:38AM 22 Q. Okay. Do you know what that tape is asking you to do?

11:38AM 23 A. I -- it's -- I received -- it feels like dozens, I'm not  
11:38AM 24 sure the exact number of calls and messages from Certified  
11:38AM 25 after I went in, which confirmed my original impression of



11:38AM 1 the sales tactics and they called all the time.

11:38AM 2 Q. In reference to buying a pick-up truck?

11:38AM 3 A. Yes.

11:38AM 4 Q. Because that's why you went in there?

11:38AM 5 A. Yes.

11:38AM 6 Q. Now did you have any other interests and discussions with

11:38AM 7 anyone about the ACV lawsuit?

11:38AM 8 A. Yes.

11:38AM 9 Q. Okay. Can you describe that for the Court?

11:38AM 10 A. Any other persons?

11:38AM 11 Q. Any in-person discussions with anyone else?

11:38AM 12 A. Well we met with people that were witnesses in the case

11:39AM 13 or people that wanted to be potential witnesses. Yes. We

11:39AM 14 met, in our law offices, with several people.

11:39AM 15 Q. Okay. I'm talking about in-person discussions with

11:39AM 16 people with counsel present?

11:39AM 17 A. Yes.

11:39AM 18 Q. All right.

11:39AM 19 A. We -- it was -- there was substantial evidence of

11:39AM 20 wrongdoing and we did everything we could to understand it

11:39AM 21 and find people that are --

11:39AM 22 MR. YANKELUNAS: Okay. Now the subject of redirect,

11:39AM 23 Judge, I have nothing further for Mr. McMurray.

11:39AM 24 THE COURT: Any cross?

11:39AM 25 MR. DIRENFELD: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. DIRENFELD:

Q. So Mr. McMurray I think I just want to start with where you just ended there and then we can trace back. You said you had dozens of other conversations with other people about the lawsuit?

MR. YANKELUNAS: Objection. That wasn't the testimony. He didn't say dozens.

THE COURT: So, don't do that until the question is finished. And dozens may be an exaggeration. You had a conversation with other people about the lawsuit. Go ahead and finish your question.

MR. DIRENFELD: Thank you, Your Honor.

BY MR. DIRENFELD:

Q. Could you tell us who those other people -- that you had conversations with about the lawsuit?

MR. YANKELUNAS: Objection, Judge. I think that's work product.

THE COURT: It appears to be work product. So if -- and the testimony was, these were potential witnesses. So let's hear why we would overcome the work product privilege.

MR. DIRENFELD: Well Your Honor, I believe that counsel opened the door to that by asking the witness in terms of whether he had conversations with other people about the

11:40AM 1 case. So I think we're entitled to explore those  
11:40AM 2 conversations he's put on the record.

11:40AM 3 THE COURT: He hasn't discussed the content of those  
11:40AM 4 conversations and the witness testified they were with  
11:40AM 5 witnesses in the law firm. I will allow you to ask him if he  
11:40AM 6 had any contact with any dealerships outside of the law firm  
11:41AM 7 similar to the conversations that's at issue here. That's a  
11:41AM 8 permissible question.

11:41AM 9 MR. DIRENFELD: Thank you, Your Honor.

11:41AM 10 BY MR. DIRENFELD:

11:41AM 11 Q. Mr. McMurray, did you have any conversations with other  
11:41AM 12 dealers outside the confines of the HoganWillig law firm?

11:41AM 13 A. No.

11:41AM 14 Q. All right. So Mr. McMurray you testified that you are  
11:41AM 15 licensed in New York State as an attorney; is that correct?

11:41AM 16 A. Correct.

11:41AM 17 Q. All right. And as a member of the New York bar, are you  
11:41AM 18 familiar with the New York Rules of Professional Conduct?

11:41AM 19 A. Yes.

11:41AM 20 Q. And that would include the rules relating to solicitation  
11:41AM 21 of clients?

11:41AM 22 A. Yes.

11:41AM 23 Q. All right. Now I think you testified earlier that you  
11:41AM 24 are no longer employed at HoganWillig; is that correct?

11:41AM 25 A. That's correct.

11:42AM 1 Q. When did you leave HoganWillig?

11:42AM 2 MR. YANKELUNAS: Objection. Relevance.

11:42AM 3 THE COURT: I'll allow it.

11:42AM 4 THE WITNESS: Approximately two months ago. I'm not

11:42AM 5 sure the exact date.

11:42AM 6 BY MR. DIRENFELD:

11:42AM 7 Q. And up until your departure two months ago, you were

11:42AM 8 working on the lawsuit against ACV that HoganWillig was

11:42AM 9 representing plaintiffs in; is that correct?

11:42AM 10 A. I was.

11:42AM 11 Q. So you testified, I believe, also earlier as to kind of

11:42AM 12 your relationship or previous relationship with Mr. Taylor.

11:42AM 13 Have you had -- was your relationship with Mr. Taylor limited

11:42AM 14 to your role as town supervisor?

11:42AM 15 A. No. We were engaged in things that were, I mean, he is

11:42AM 16 an active member of the community as was I -- as am I. It's

11:43AM 17 a small town. You're part of the committee to build the

11:43AM 18 DeGlopper Memorial. We're both working on that together or

11:43AM 19 adjacent to it. So it wasn't simply as the town supervisor.

11:43AM 20 We know each other to the point where I walked in and he saw

11:43AM 21 me. We were -- it was -- excited to see each other.

11:43AM 22 Q. When was that memorial that you referenced? When was

11:43AM 23 that? When was that completed or when was that worked on?

11:43AM 24 A. It's still work in progress, but it's substantially

11:43AM 25 completed as of last year.

11:43AM 1 Q. Okay. And you testified earlier as to a falling out that  
11:43AM 2 you had with Mr. Taylor relating to the West River Trail?  
11:43AM 3 A. Right.  
11:43AM 4 Q. When did that falling out occur?  
11:43AM 5 A. Approximately 2016. But we still are in the same small  
11:43AM 6 town and, you know, you got to get along with people when you  
11:44AM 7 see people.  
11:44AM 8 Q. Prior to July, prior to you going to Certified Auto on  
11:44AM 9 July 22nd, 2021, when was the last time you had seen  
11:44AM 10 Mr. Taylor?  
11:44AM 11 A. I cannot remember exactly.  
11:44AM 12 Q. Had you seen him in 2020?  
11:44AM 13 MR. YANKELUNAS: Objection asked and answered.  
11:44AM 14 THE COURT: Sustained.  
11:44AM 15 BY MR. DIRENFELD:  
11:44AM 16 Q. Now you are not related to Mr. Taylor; is that correct?  
11:44AM 17 A. I do not believe I am. No.  
11:44AM 18 Q. Right. And Mr. Taylor has never been your client before?  
11:44AM 19 A. No.  
11:44AM 20 Q. As an attorney?  
11:44AM 21 A. No.  
11:44AM 22 Q. Has he ever been a client of HoganWillig?  
11:44AM 23 A. I don't know.  
11:44AM 24 Q. Has Certified Auto Brokers ever been a client of  
11:44AM 25 HoganWillig?

11:44AM 1 A. I don't know.

11:44AM 2 Q. Has Certified Auto Brokers ever been a client of yours in

11:45AM 3 your capacity as an attorney?

11:45AM 4 A. No.

11:45AM 5 Q. So I want to turn to the events of July 22nd that you

11:45AM 6 testified to. I believe you testified that you stopped off

11:45AM 7 at Certified Auto Brokers on your way home from work.

11:45AM 8 Approximately what time was that at?

11:45AM 9 A. I don't remember exactly. It was in the afternoon some

11:45AM 10 time.

11:45AM 11 Q. Was it close to the time that Certified Auto Brokers was

11:45AM 12 closing?

11:45AM 13 A. I don't remember. It was -- honestly, if we weren't

11:45AM 14 having this discussion --

11:45AM 15 MR. YANKELUNAS: Just answer the question, Nate.

11:45AM 16 THE WITNESS: I would never remember most of this.

11:45AM 17 It was a brief encounter.

11:45AM 18 BY MR. DIRENFELD:

11:45AM 19 Q. Now you say that you -- one of your issues when you were

11:45AM 20 talking with Mr. Renzoni, as it related to the trucks was

11:45AM 21 that you didn't like the price that he was giving to you; is

11:45AM 22 that correct?

11:45AM 23 A. The -- I told him exactly how much I wanted to pay. And

11:46AM 24 he said, how about we do this? And I said, that doesn't make

11:46AM 25 sense from what I'm hearing at other dealerships.

11:46AM 1 Q. How much did you want to pay?

11:46AM 2 A. I said I wanted to keep my payment to \$500 a month and I

11:46AM 3 wanted a car that was within, you know, three to five years

11:46AM 4 old and he said, how about this much? And I was like no.

11:46AM 5 Q. Did he offer to show you any cars on the lot?

11:46AM 6 A. Yeah. He also said he didn't have the car I wanted,

11:46AM 7 which was a Dodge Ram.

11:46AM 8 Q. So you testified he didn't have any Dodge Rams in stock?

11:46AM 9 A. He said not of the color I wanted. I wanted black.

11:46AM 10 Q. I believe you testified earlier that you don't have a lot

11:46AM 11 of time and therefore, it was important for you to make a

11:46AM 12 very efficient trip. Is that correct? Is that fair to say?

11:46AM 13 A. Yes, that's fair to say.

11:46AM 14 Q. Did you do any research prior to going to Certified Auto

11:46AM 15 Brokers as to what cars they may have in stock?

11:46AM 16 A. Again, I pass it all the time. Lots of cars. And I know

11:47AM 17 from talking to Chris in the past he has the ability to get

11:47AM 18 cars fast. So I thought, why don't I give it a shot?

11:47AM 19 Q. But did you do any research in terms of what inventory

11:47AM 20 they had on the lot prior to going?

11:47AM 21 MR. YANKELUNAS: Objection.

11:47AM 22 THE WITNESS: I don't have -- go ahead.

11:47AM 23 THE COURT: So, stop. There's an objection. Basis?

11:47AM 24 MR. YANKELUNAS: Asked and answered.

11:47AM 25 THE COURT: I do not believe it has been. Did you do

11:47AM 1 any research before you went on the lot?

11:47AM 2 THE WITNESS: Other than driving by, no. I don't

11:47AM 3 have a personal, first-hand knowledge of the lot or the

11:47AM 4 dealership or -- beyond my interaction with Chris in the past.

11:47AM 5 So, no. I was going to go and look later.

11:47AM 6 BY MR. DIRENFELD:

11:47AM 7 Q. Okay. What dealership did you ultimately purchase your

11:47AM 8 car from?

11:47AM 9 A. What's it called again? I think it's called Northtown

11:47AM 10 Dodge Ram.

11:47AM 11 Q. Okay. And how did you decide to go to that dealership?

11:47AM 12 A. The same way, I pass it on the way home and it's near

11:48AM 13 where I was working.

11:48AM 14 Q. So just -- you did not end up actually looking at any

11:48AM 15 vehicles while you were on the Certified Auto Brokers lot; is

11:48AM 16 that correct?

11:48AM 17 MR. YANKELUNAS: Objection. Asked and answered.

11:48AM 18 THE COURT: It is.

11:48AM 19 MR. DIRENFELD: Okay.

11:48AM 20 BY MR. DIRENFELD:

11:48AM 21 Q. Now in talking with Mr. Taylor, you brought up the

11:48AM 22 lawsuit with ACV; is that correct?

11:48AM 23 A. Yes.

11:48AM 24 Q. All right. And you invited Mr. Taylor to talk more with

11:48AM 25 you about the lawsuit; is that correct?



11:48AM 1 A. Yes, because he seemed to know lots about ACV.

11:48AM 2 Q. Did you offer Mr. Taylor to come to HoganWillig to

11:49AM 3 discuss the lawsuit?

11:49AM 4 A. Yes. I said, do you want to? Let's -- maybe we can talk

11:49AM 5 later and, you know, I said, reach out to me.

11:49AM 6 Q. Did you offer Certified Auto Brokers that HoganWillig

11:49AM 7 could represent ACV in a lawsuit?

11:49AM 8 A. No. I didn't -- I said we should talk more. More than

11:49AM 9 anyone, I wanted to get his inside knowledge of the industry.

11:49AM 10 I'm not from the industry. He's lived in it -- okay. Sorry.

11:49AM 11 Q. So after your discussion with Mr. Taylor regarding ACV

11:49AM 12 Auctions, did you leave the dealership after that

11:49AM 13 conversation?

11:49AM 14 A. Right away. Yes.

11:49AM 15 Q. Did Mr. Taylor offer to show you cars on the lot as part

11:49AM 16 of your conversation?

11:49AM 17 A. I don't recall.

11:49AM 18 Q. You testified earlier regarding voice messages that you

11:50AM 19 received from Mr. Renzoni. You didn't return any of those

11:50AM 20 voice messages, did you, about purchasing a pick-up truck?

11:50AM 21 A. I did not.

11:50AM 22 Q. What is your payment on the car that you did end up

11:50AM 23 purchasing?

11:50AM 24 MR. YANKELUNAS: Objection. Relevance.

11:50AM 25 THE COURT: I'm going to sustain the objection.

11:50AM 1 MR. DIRENFELD: I have no further questions, Your  
11:50AM 2 Honor.

11:50AM 3 THE COURT: Any redirect?

11:50AM 4 MR. YANKELUNAS: No, Judge.

11:50AM 5 THE COURT: Any further witnesses for plaintiffs?

11:50AM 6 MR. YANKELUNAS: No, Your Honor.

11:50AM 7 THE COURT: Any rebuttal witnesses for defendants?

11:51AM 8 MS. JAWORSKI: No, Your Honor.

11:51AM 9 THE COURT: I'm going to close the evidence  
11:51AM 10 alternative this point in time. I believe both sides  
11:51AM 11 adequately briefed the issues. I know what they are. If you  
11:51AM 12 feel there is something you need to supplement, I would give  
11:51AM 13 you two weeks to do it. I don't necessarily share that  
11:51AM 14 opinion, but I wouldn't be opposed to it. Any thoughts about  
11:51AM 15 that?

11:51AM 16 MR. YANKELUNAS: That sounds adequate, Judge. Thank  
11:51AM 17 you.

11:51AM 18 MS. JAWORSKI: Agreed, Your Honor. Thank you.

11:51AM 19 THE COURT: All right. I want you to make sure that  
11:51AM 20 the court clerk gets a hard copy of your exhibits, including  
11:51AM 21 the recording. I'll close the evidence at this time. I'll  
11:51AM 22 take the matter under advisement 14 days from today, starting  
11:51AM 23 tomorrow and do the 14-day count. If you didn't file  
11:51AM 24 anything, it just goes under advisement based on what's been  
11:51AM 25 filed so far. All right? Anything further in this matter?

11:52AM 1 MR. YANKELUNAS: Not for the plaintiff, Your Honor.

11:52AM 2 Thank you very much.

11:52AM 3 MS. JAWORSKI: No, Your Honor. Thank you.

11:52AM 4 THE COURT: All right. Thank you. Thank you, madam

11:52AM 5 clerk. You may leave the Zoom call.

6 (Proceedings concluded at 11:52 a.m.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

\* \* \* \* \*

I certify that the foregoing is a  
correct transcription of the proceedings  
recorded by me in this matter.

s/ Megan E. Pelka, RPR

Official Court Reporter